

## Chapter 2

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<sup>1</sup>**Cross references**—Civil defense and emergency services, Ch. 9; Elections, Ch. 13; Police, Ch. 26.

**ARTICLE I. IN GENERAL**

**Sec. 2-1. Compliance by city with applicable laws.**

The city and its officers and employees shall comply with all applicable state and federal laws.

**Sec. 2-2. City manager may execute contracts.**

The city manager is hereby authorized to execute all contracts and other documents or instruments in the name of the city during the absence or disability of the mayor and vice mayor. (Ord. No. 92.32, 7-30-92)

**Sec. 2-3. Receipt and review of criminal history information.**

(a) That the city council may examine criminal history information including non-conviction information concerning any employee or candidate for appointment to an employee position for which it is charged with the duty of administering under the charter of the city.

(b) That the safety officer and risk management personnel may examine criminal history information including non-conviction information concerning any incident which will involve any potential or actual liability, criminal or civil, on the part of the city or any incident which may give rise to a claim on behalf of the city and may furnish said information to the appropriate insurance or legal personnel charged with the responsibility of disposing of and collecting claims involving the city.

(c) That the internal services director, city manager and city council, when acting as a licensing authority, may examine criminal history information including non-conviction information concerning any applicant for a license or permit required under this code or any other public law.

(d) That the internal services director or designee may examine criminal history information including non-conviction information concerning any employee or candidate for appointment to a city position.  
(Ord. No. 636.10, 4-13-78; Ord. No. 2002.56, 1-16-03; Ord. No. 2010.02, 2-4-10; Ord. No. O2014.27, 6-26-14)

**Secs. 2-4—2-15. Reserved.**

**ARTICLE II. OFFICERS AND EMPLOYEES**

**DIVISION 1. GENERALLY**

**Sec. 2-16. Superintendent of streets.**

(a) There is hereby established the office of superintendent of streets with all powers and duties as may be permitted by law for such office.

(b) The superintendent of streets shall automatically be the person appointed to hold the office of public works director and any appointment to the office of public works director shall also carry with it the appointment to the office of superintendent of streets.  
(Code 1967, § 2-1; Ord. No. 2001.17, 7-26-01; Ord. No. 2010.02, 2-4-10)

**Cross reference**—Streets and sidewalks, Ch. 29.

**Sec. 2-17. Repealed.**

(Ord. No. 2000.41, 9-21-00; Ord. No. 2001.17, 7-26-01; Ord. No. 2002.13, 3-28-02)

**Sec. 2-18. Deputy city managers.**

(a) Deputy city manager/chief operating officer. There is hereby established the office of deputy city manager/chief operating officer working directly under and for the city manager. The obligations and duties of the deputy city manager/chief operating officer include: works through and with department directors to establish and maintain an environment which encourages creativity, innovation and accountability at all levels throughout the city; assists city management to shape, define and realize the organizational aspirations, mission and culture; serves as a visible leadership presence to encourage, develop and support department directors in providing visionary, innovative and service driven leadership to city customers and staff; evaluates proposed actions for potential positive benefits and unforeseen consequences to the city and its citizens; participates in complex and sensitive negotiations and special projects for the city manager; facilitates and coordinates projects, activities and goals with other city departments and outside agencies; provides strong visionary and innovative management leadership in accordance with the city's mission and values; and provides highly responsible and complex administrative support to the city manager. The deputy city manager/chief operating officer will manage such divisions, departments and offices as the city manager directs from time to time.

(1) The following offices and departments shall report to the deputy city manager/chief operating officer, unless and until the city manager directs otherwise:

- a. *Community development department.* The community development department shall encompass the following divisions: planning; building safety; right-of-way management; and neighborhood services;
- b. *Community services department.* The community services department shall encompass the following divisions: recreation; and, arts, cultural

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services and library services;

- c. *Internal audit.* The internal audit office provides independent appraisal of city programs, policies and functions in order to help management perform more efficiently and effectively; examines financial reports, various records and procedures to determine compliance with applicable ordinances, regulations, policies and contractual provisions; evaluates the city's internal control structure and recommends improvements that will help to safeguard the city's assets; and performs the duties of the taxpayer problem resolution officer, as outlined in § 16-515 of this code;
- d. *Human services department.* The human services department shall encompass the following divisions and offices: social services; housing; and, diversity and outreach; and
- e. *Public works department.* The public works department shall encompass the following divisions: water utilities division; field operations; transit and transportation; and construction management.

(b) Deputy city manager/chief financial officer. There is hereby established the office of deputy city manager/chief financial officer working directly under and for the city manager. The obligations and duties of the deputy city manager/chief financial officer include: works through and with department directors to establish and maintain an environment which encourages creativity, innovation and accountability at all levels throughout the city; assists city management to shape, define and realize the organizational aspirations, mission and culture; serves as a visible leadership presence to encourage, develop and support department directors in providing visionary, innovative and service driven leadership to city customers and staff; evaluates proposed actions for potential positive benefits and unforeseen consequences to the city and its citizens; participates in complex and sensitive negotiations and special projects for the city manager; facilitates and coordinates projects, activities and goals with other city departments and outside agencies; provides strong visionary and innovative management leadership in accordance with the city's mission and values; and provides highly responsible and complex administrative support to the city manager. The deputy city manager/chief financial officer will manage such divisions, departments and offices as the city manager directs from time to time.

- (1) The following offices and departments shall report to the deputy city manager/chief financial officer, unless and until the city manager directs otherwise:
  - a. *Internal services department.* The internal services department shall encompass the following divisions: human resources; information technology; and, central and financial services; and
  - b. *Municipal budget office.* The municipal budget office shall prepare and submit an annual proposed budget and capital program to the deputy city manager/chief financial officer; and shall assist the deputy city

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manager/chief financial officer on preparation of a complete report on the finances of the city.

(Ord. No. 2000.41, 9-21-00; Ord. No. 2001.17, 7-26-01; Ord. No. 2002.13, 3-28-02; Ord. No. 2010.02, 2-4-10; Ord. No. 2013.41, 8-22-13; Ord. No. O2014.27, 6-26-14)

### **Sec. 2-19. City manager.**

The city manager, pursuant and in addition to the duties and obligations set forth in the city charter, is hereby authorized to establish such working groups and divisions under his direct supervision as he may deem appropriate from time to time. The city manager directly supervises and oversees support staff, divisions and departments which are not otherwise assigned to a deputy city manager.

(Ord. No. 2000.41, 9-21-00; Ord. No. 2001.17, 7-26-01; Ord. No. 2008.06, 2-21-08; Ord. No. O2014.27, 6-26-14)

### **Secs. 2-20—2-25. Reserved.**

## DIVISION 2. CITY COURT JUDGES AND HEARING OFFICERS<sup>2</sup>

### **Sec. 2-26. Appointment and qualification of judges.**

(a) All judges of the city court of the city must meet the minimum following qualifications:

- (1) Possess a law degree from an accredited law school and be a member of the State Bar of Arizona in good standing for a minimum period of five (5) years; and
- (2) Have sufficient experience and temperament to preside over the city court and continue to meet all qualifications as may be established by the Arizona Supreme Court or as required by law for such judges.

(b) The presiding judge of the city court and such other judges as deemed necessary shall be appointed by the city council. The length of term of office for such judges shall be a minimum of two (2) years as determined by the city council.

(Ord. No. 1145, § I, 2-12, 5-16-85, in part; Ord. No. 94.14, 6-30-94)

**Editor's note** - Ord. No. 94.22, 7-14-94, expressed council approval of the appointment of all judges of the City Court, regular and pro tempore, to serve as juvenile hearing officers by the presiding judge of the Maricopa County Juvenile Court.

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<sup>2</sup>**Charter reference**—City magistrate, 2.08(b).

**State law reference**—City courts, A.R.S. § 22-401 et seq.

**Sec. 2-27. Filling of vacancies.**

In the event of the death, resignation, suspension or removal of a city court judge, such vacancy may be filled for the unexpired term of office. The city council may suspend or remove a judge:

- (1) For any reason authorized by law;
  - (2) Whenever the judge is unable to perform the duties of the office; or
  - (3) For failure to meet the minimum qualifications of the position.
- (Ord. No. 1145, § I, 2-13, 5-16-85, in part; Ord. No. 94.14, 6-30-94)

**Sec. 2-28. Temporary judges.**

Notwithstanding anything to the contrary in this division, the presiding judge of the city court may appoint judges to serve on a temporary or "pro tempore" basis. Such judges shall be compensated on a contractual or hourly basis, shall not be eligible for any benefits as a full-time employee and shall be appointed for a term as set forth by the presiding judge of the city court. (Ord. No. 1145, § I, 2-14, 5-16-85, in part; Ord. No. 94.14, 6-30-94)

**Sec. 2-29. Appointment and qualifications of court hearing officers.**

(a) The presiding judge of the city court may appoint court hearing officers who shall have the power to hear and adjudicate civil offenses. Court hearing officers appointed by the presiding judge must meet the following qualifications:

- (1) All qualifications as may be established, from time to time, by the Arizona Supreme Court or as may be required by statute for such officers; and
- (2) Possess a law degree from an accredited law school or a bachelor's degree with at least three (3) years of experience in the area of traffic law or a related field.

(b) Court hearing officers shall be appointed for a term of two (2) years and may be removed during the term by the presiding judge for cause and after a hearing. Court hearing officers shall comply with all personnel rules and regulations of the city as applicable and shall be nonclassified exempt employees.

(c) The presiding judge of the city court may appoint one or more court hearing officers to serve on a temporary or "pro tempore" basis as may be required by the city court, to serve under the authority of the presiding judge. Such hearing officers shall be compensated on a contractual or hourly basis, shall not be eligible for any benefits as a full time employee and shall be appointed for a term as set forth by the presiding judge of the city court.

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(d) The powers and duties of the court hearing officers shall be those as may be established by statute or the rules of the Arizona Supreme Court or the presiding judge of the city court relating to such hearing officers.  
(Ord. No. 94.14, 6-30-94)

### **Sec. 2-30. Establishment of city court user charge and city court enhancement fund.**

(a) A city court user charge shall be imposed by the city court on all offenses processed by the court which result in an order or agreement to pay any fine, sanction, penalty or assessment or participate in any court authorized diversion program. The user charge shall not be imposed on civil parking violations. The city court user charge shall be established by city council resolution (see Appendix A). The city court user charge shall be collected by the court for deposit into the city court enhancement fund.

(b) A city court enhancement fund is hereby established for the exclusive purpose of enhancing technology, operation and facilities of the city court. The fund shall be administered by the presiding judge. Monies in the fund shall supplement funds provided to the city court through the city budget process and shall be used for city court technology, operation and facilities. Interest earned on monies in this fund shall be credited to the court enhancement fund.  
(Ord. No. 95.38, 11-9-95; Ord. No. O2014.35, 8-14-14)

### **Sec. 2-31. Judicial advisory board—establishment; membership; powers and duties; operating procedures.**

(a) There is hereby created a judicial advisory board, which shall have the purpose of recommending to the city council the best qualified persons to become city magistrate, and to evaluate the performance of and advise regarding the retention of current appointed magistrates. The board shall be composed of six (6) persons appointed by the mayor with the approval of the city council, as follows:

- (1) The presiding judge of the Tempe Municipal Court, who shall serve as a non-voting ex-officio member except for the reappointment of the presiding judge;
- (2) The presiding judge of the Maricopa County Superior Court, or designee who shall also be a judge of the Maricopa County Superior Court;
- (3) Two (2) active members in good standing of the State Bar of Arizona, who shall reside in the Tempe who shall be appointed by the mayor from among three (3) nominees recommended by the State Bar's Board of Governors. In no event shall either member hold or have held any contract for professional services with Tempe in the last five (5) years; and
- (4) Two (2) public members who are residents of Tempe. No public members shall have been a party to any matters pending before any division of the Tempe Municipal Court for the five (5) years preceding their appointment.

(b) The initial officers of the board shall be selected by the mayor with the approval of the city council. Thereafter, the officers of the board shall be selected by the members at the first meeting following the 31st day of December of each year and shall serve from January 1 until the 31st day of December of the next succeeding year. No officer may serve in the same capacity for more than three (3) consecutive one-year terms. None of the members of the board shall be an employee of the City of Tempe. Members shall serve a term of three (3) years and shall be eligible for reappointment for one additional three (3) year term. The members shall serve without salary or compensation.

(c) The Board shall have the following powers and duties:

- (1) To seek out and encourage qualified individuals to apply for the office of city judge or presiding judge;
- (2) To conduct investigations into the background and qualifications of candidates for a new appointment to the office of city judge or presiding judge, including but not limited to the use of questionnaires, personal interviews, and contacting such individuals and institutions as it deems reasonable to obtain as much background information on the candidate as possible;
- (3) To get as much input as possible from litigants, lawyers, witnesses, victims, jurors and staff of the city court in any form practicable, including but not limited to surveys, and to hold public hearings designed to permit interested parties and groups to submit verbal or written comments on reappointments. Any mechanism chosen by the board to receive public input concerning appointments or reappointment must be designed to allow for confidential submissions to the board if so requested; and
- (4) To submit its recommendations for candidates for appointment or reappointment to the office of city judge or presiding judge, without regard for race, religion, political affiliation, gender or sexual orientation, to the mayor and city council.

(d) The meetings of the board shall be held as needed for the purpose of reviewing applications for appointment or to conduct a reappointment review. A call for a meeting shall issue promptly upon learning of the existence or anticipated existence of a vacancy in the office of city judge or presiding judge or prior to the end of an existing term of a city judge or presiding judge eligible for reappointment.

(Ord. No. 2002.44, 10-24-02)

#### **Sec. 2-32. Establishment of prosecution assessment.**

(a) The city court shall assess each person prosecuted by the State in which an adjudication of guilt is entered a prosecution assessment as established by city council resolution (see Appendix A) for each case based upon a criminal or petty offense arising out of a violation of Arizona Revised Statutes, the Tempe City Code or the City of Tempe Zoning and



Development Code.

(b) Upon a finding of indigency or in the interests of justice, the city court may waive this assessment if it also waives all other fees or assessments that it has discretion to waive.

(c) The prosecution assessment shall be collected by the city court for deposit into the city general fund.

(Ord. No. 2006.45, 6-1-06; Ord. No. 2008.47, 9-18-08)

**Sec. 2-33. Establishment of warrant fees.**

(a) When a judge of the city court issues a warrant for failure to comply with a term or condition of sentence on a criminal charge, an administrative fee may be imposed upon the person for whom the arrest warrant is issued and this fee shall be added to the amount set forth in the arrest warrant.

(b) The warrant fee may be waived or suspended when such waiver would be in the interest of justice. No person who is found to be indigent by the city court shall be required to pay the warrant fee.

(c) The warrant fee provided for in this section is hereby declared to be a cost recovery measure, administrative in nature, separate from and in addition to any sentence or conditions imposed by the city court. The city court shall set forth the requirement and amount of such warrant fee as a separate item in all orders and judgments.

(Ord. No. 2006.46, 6-1-06)

**Sec. 2-34. Appointment and qualifications of commissioners.**

(a) The presiding judge of the city court may appoint court commissioners who shall have the power to hear and adjudicate civil offenses as well as criminal offenses on an as needed basis. Court commissioners appointed by the presiding judge must meet the following qualifications:

- (1) Possess a law degree from an accredited law school and be a member of the State Bar of Arizona in good standing for a minimum period of five (5) years;
- (2) Have sufficient experience and temperament to preside over the city court and continue to meet all qualifications as may be established by the Arizona Supreme Court or as required by law for such judges; and
- (3) All qualifications as may be established, from time to time, by the Arizona Supreme Court as may be required by statute for hearing officers.

(b) Court commissioners shall be appointed for a term of two (2) years and may be disciplined or removed during the term by the presiding judge. Court commissioners shall

comply with the Arizona Code of Judicial Conduct and all personnel rules and regulations of the city as applicable and shall be unclassified exempt employees.

(c) The powers and duties of the court commissioners shall be those as may be established by statute or the rules of the Arizona Supreme Court or the presiding judge of the city court relating to such commissioners.

(Ord. No. 2007.13, 3-1-07; Ord. No. O2015.08, 2-12-15)

**Secs. 2-35—2-130. Reserved.**

**ARTICLE III. DEPARTMENTS<sup>3</sup>**

**Sec. 2-131. Generally.**

(a) Pursuant to § 4.01 of the city charter, there is hereby established the following departments:

- (1) Community development department;
- (2) Community services department;
- (3) Fire medical rescue department;
- (4) Human services department;
- (5) Internal services department;
- (6) Police department;
- (7) Public works department.

(b) All of the above departments shall be administered by an officer appointed by and subject to the direction and supervision of the city manager as provided in § 4.01(b) of the city charter.

(c) The departments may establish, with the approval of the city manager, such divisions and work groups as are deemed by the city manager to be in the best interest of the city. (Ord. No. 2000.41, 9-21-00; Ord. No. 2000.52, 12-14-00; Ord. No. 2001.17, 7-26-01; Ord. No. 2002.13, 3-28-02; Ord. No. 2003.25, 9-11-03; Ord. No. 2005.18, 4-7-05; Ord. No. 2006.25, 4-6-06; Ord. No. 2010.02, 2-4-10; Ord. No. O2014.14, 3-20-14; Ord. No. O2014.27, 6-26-14)

**Sec. 2-132. Community development department.**

(a) The community development department is responsible for city redevelopment and revitalization, business recruitment and retention, and Tempe Town Lake at Rio Salado. The department's responsibilities include planning and directing redevelopment activities within the city, neighborhood enhancement, building safety, right-of-way management, neighborhood services, and special projects; developing strategies and implementing efforts to retain, increase and diversify the economic base of the city; and managing the operations, maintenance, administration, marketing and development of the Tempe Town Lake on the Rio Salado.

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<sup>3</sup>**Editor's note**—Ord. No. 2000.41 repealed prior §§ 2-131 through 2-133. Prior ordinances were Code 1967 §§ 2-9—2-11, Ord. No. 636.9, Ord. No. 88.54, Ord. No. 95.13, Ord. No. 95.22 and Ord. No. 96.40.

(b) The community development department plans and directs development within the city, including development plan review, permitting and inspections, community planning and zoning, and customer service.

(c) The community development department shall be charged with the responsibility of fairly issuing building permits and fairly applying building codes, zoning ordinances and other development regulatory documents, which are approved by the city council, as well as responsibility for ensuring compliance with other codes and ordinances as designated by the city council or the city manager.

(Ord. No. 2005.18, 4-7-05; Ord. No. 2010.02, 2-4-10; Ord. No. O2014.27, 6-26-14)

**Cross reference**—Planning & development, Ch. 25.

**Sec. 2-133. Repealed.**

(Ord. No. 2002.13, 3-28-02; Ord. No. 2005.18, 4-7-05; Ord. No. 2010.02, 2-4-10)

**Sec. 2-134. Community services department.**

(a) The community services department plans, develops and provides a variety of services, programs and facilities for the community including cultural services, parks and recreation, arts, and the Tempe public library.

(b) The community services department shall be charged with the responsibility to carry out the following functions and services:

- (1) To oversee the facilities, programs and services as assigned by the city manager and staffing of such boards, commissions or committees as may be established by the city council and assigned to be supported by the department;
- (2) To establish and recommend to the city council and the city manager rules and procedures for the successful conduct of business relative to the facilities programs and services assigned;
- (3) To make recommendations to the city council that will set by resolution the use of facility permit fee(s) and usage charges for nonprofit and profit groups to utilize on a temporary basis those portions of the facilities under the supervision of the community services director as assigned; and
- (4) To make recommendations to the city council regarding fee(s) and charges for individuals and groups to participate in programs and utilize services under the supervision of the department as assigned.

(Ord. No. 2000.41, 9-21-00; Ord. No. 2001.17, 7-26-01; Ord. No. 2002.13, 3-28-01; Ord. No. 2005.18, 4-7-05; Ord. No. 2006.25, 4-6-06; Ord. No. 2010.02, 2-4-10; Ord. No. O2014.27, 6-26-14)

**Sec. 2-135. Repealed.**

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(Ord. No. 2000.41, 9-21-00; Ord. No. 2002.13, 3-28-02; Ord. No. 2005.18, 4-7-05; Ord. No. 2010.02, 2-4-10)

### **Sec. 2-136. Repealed.**

(Ord. No. 2003.25, 9-11-03; Ord. No. 2005.18, 4-7-05; Ord. No. 2010.02, 2-4-10)

### **Sec. 2-137. Repealed.**

(Ord. No. 2001.17, 7-26-01; Ord. No. 2002.13, 3-28-02; Ord. No. 2010.02, 2-4-10; Ord. No. O2014.27, 6-26-14)

### **Sec. 2-138. Fire medical rescue department.**

(a) The fire medical rescue department provides fire suppression, hazardous material mitigation, fire and life safety code compliance, fire prevention, public education, emergency medical services, technical rescue, community health, organization-wide disaster prevention activities and administrative support services to the city.

(b) The fire medical rescue department is also involved in the inspection and enforcement of all state and local fire codes.

(Ord. No. 2000.41, 9-21-00; Ord. No. 2001.17, 7-26-01; Ord. No. 2002.13, 3-28-02; Ord. No. O2014.14, 3-20-14)

**Cross reference**—Fire prevention & protection, Ch. 14.

### **Sec. 2-138.1. Human services department.**

(a) The human services department is responsible for providing a variety of services, programs and facilities for the community including social services, housing, diversity and outreach, and serving as a liaison to the city's external partners.

(b) The human services department is responsible for: facilitating a fair and equitable work environment for city employees; coordinating the city's response to the diversity audit; functioning as an ombudsman for city employees; providing administrative support to the human relations commission; coordinating community special events; participating in investigation of administrative guidelines and human resource policies; participating in investigations and resolutions of internal and external harassment and discrimination complaints; serving as a resource for employees for issues relating to diversity and organizational effectiveness; and working with city departments to develop and improve diversity programs and efforts.

(Ord. No. O2014.27, 6-26-14)

### **Sec. 2-139. Internal Services department.**

(a) The internal services department consists of the following divisions:

- (1) *Central/financial services division.* The central/financial services division includes procurement; accounting; customer service including meter reading and

water billing; risk management; and sales tax licensing functions of the city. This division is responsible for administering Tempe City Code, Chapter 26A, Procurement;

- (2) *Human resources division.* Section 4.02(b) of the city charter requires that a personnel officer be appointed by the manager to administer the personnel system. The deputy city manager/chief financial officer or designee is established as the personnel officer and may delegate any of the powers, duties and responsibilities therefore to any other employee of the city. All references to human resources manager within the personnel rules and this code refer to the internal services director or designee or the individual with day-to-day responsibility for city-wide human resources management.

- a. The human resources division of the internal services department shall be charged with the responsibility to carry out the following functions and services:
  - i. To administer and coordinate employee relations such as grievances, merit hearings and diversity; to administer the city's personnel rules and regulations, recruitment and selection program, classifications and compensation plans and performance evaluation programs; to administer employee fringe benefit programs; to administer and coordinate training and education efforts for city employees; and any such other related duties; and
  - ii. To provide general administrative support such as maintenance of personnel records and transactions.
- b. The internal services director or designee pursuant to A.R.S. § 41-1750 and Public Law (PL) 92-544 shall have access to background check and state, federal or both criminal history information non-conviction concerning:
  - i. Any, applicant, employee or candidate for appointment to a city position shall submit a full set of fingerprints to the internal services department. The department of public safety is authorized to exchange this fingerprint data with the federal bureau of investigation. Fingerprints must be submitted on fingerprint cards provided by the city;
  - ii. All prospective volunteers who will either be (i) in direct contact with minors or incapacitated adults while not under direct supervision of a regular city public safety employee or (ii) a prospective public safety volunteer, will require such prospective volunteer to be fingerprinted and to provide such fingerprints and such other information as may be needed by the Arizona Department

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of Public Safety to provide criminal history record information to the city to evaluate the background of the prospective volunteer and to exchange fingerprint identification with the federal bureau of investigation for the purpose of obtaining criminal history record information on such individuals; and

- iii. The internal services director or designee will keep all information obtained from the Arizona Department of Public Safety or the Federal Bureau of Investigation confidential and make such information available to other city personnel only as may be necessary to reach a determination as to the acceptability of the individual or as may be otherwise required by law. Specifically the information may be shared only as necessary with the mayor and city council of the city, the city manager or his designee and the city attorney's office.

- (3) *Information technology division.* The information technology division of the internal services department shall be charged with the responsibility to carry out the following functions and services:

- a. Provide shared resources, computer and voice systems, software solutions, customer support and information processing services to city departments and divisions;
- b. Plan, develop and administer high-speed information systems, applications and networks for the purposes of information sharing, business collaboration, citizen interaction and self-service; and
- c. Provide electronic public access to city information and services using state-of-the-art internet technology.

(Ord. No. 2001.17, 7-26-01; Ord. No. 2002.13, 3-28-02; Ord. No. 2002.56, 1-16-03; Ord. No. 2010.02, 2-4-10; Ord. No. 2013.14, 2-21-13; Ord. No. O2014.27, 6-26-14)

### **Sec. 2-140. Repealed.**

(Ord. No. 2001.17, 7-26-01; Ord. No. 2002.13, 3-28-02; Ord. No. 2010.02, 2-4-10)

### **Sec. 2-141. Repealed.**

(Ord. No. 2003.25, 9-11-03; Ord. No. 2010.02, 2-4-10)

### **Sec. 2-142. Repealed.**

(Ord. No. 2006.25, 4-6-06; Ord. No. 2010.02, 2-4-10)

### **Sec. 2-143. Police department.**

(a) The police department plans, develops, provides law enforcement services for the city, including patrol, crime prevention, communications, investigations, traffic, special enforcement, municipal jail, crime analysis and records.

(b) The police department enforces the laws of the State of Arizona and ordinances and codes of the city.  
(Ord. No. 2000.41, 9-21-00; Ord. No. 2001.17, 7-26-01; Ord. No. 2002.13, 3-28-02; Ord. No. 2006.25, 4-6-06)

**Cross reference**—Police, Ch. 26.

**Sec. 2-144. Public works department.**

(a) The public works department plans, develops and administers construction management, building and custodial maintenance, refuse collection and disposal, recycling, street maintenance, traffic operations and maintenance, traffic studies and design, transit, equipment management, transit activities, parks and golf course maintenance activities for the city, and field operations.

(b) The public works department is responsible for the city's water resources, water quality and water conservation, operates water treatment facilities, provides water delivery to all city water users, operates the city's sanitary sewer system, provides environmental services for the city, and administers the city's industrial pretreatment program, its storm water program and its backflow prevention program.  
(Ord. No. 2000.41, 9-21-00; Ord. No. 2000.52, 12-14-00; Ord. No. 2001.17, 7-26-01; Ord. No. 2002.13, 3-28-02 Ord. No. 2006.25, 4-6-06; Ord. No. 2010.02, 2-4-10; Ord. No. O2014.27, 6-26-14)

**Sec. 2-145. Repealed.**

(Ord. No. 2000.52, 12-14-00; Ord. No. 2001.17, 7-26-01; Ord. No. 2002.13, 3-28-02; Ord. No. 2006.25, 4-6-06; Ord. No. 2010.02, 2-4-10)



**ARTICLE IV. FINANCIAL AFFAIRS**

**DIVISION 1. PROCUREMENT<sup>4</sup>**

**Sec. 2-146. Repealed.**

(Ord. No. 91.18, 7-25-91; Ord. No. 97.55, 12-11-97)

**Sec. 2-147. Repealed.**

(Code 1967, § 13-1—13-3; Ord. No. 90.28, 7-12-90; Code 1986, § 2-146; Ord. No. 91.18, 7-25-91; Ord. No. 97.55, 12-11-97)

**Sec. 2-148. Repealed.**

(Ord. No. 89.20, 4-27-89; Ord. No. 97.55, 12-11-97)

**Sec. 2-149. Repealed.**

(Ord. No. 89.20, 4-27-89; Ord. No. 97.55, 12-11-97)

**Sec. 2-150. Repealed.**

(Ord. No. 89.20, 4-27-80; Ord. No. 91.18, 7-25-91; Ord. No. 97.55, 12-11-97)

**Sec. 2-151. Repealed.**

(Ord. No. 89.20, 4-27-89; Ord. No. 97.55, 12-11-97)

**Sec. 2-152. Repealed.**

(Ord. No. 89.20, 4-27-89; Ord. No. 97.55, 12-11-97)

**Sec. 2-153. Repealed.**

(Ord. No. 89.20, 4-27-89; Ord. No. 97.55, 12-11-97)

**Sec. 2-154. Repealed.**

(Ord. No. 89.20, 4-27-89; Ord. No. 97.55, 12-11-97)

**Sec. 2-155. Repealed.**

(Ord. No. 89.20, 4-27-89; Ord. No. 97.55, 12-11-97)

**Sec. 2-156. Repealed.**

(Ord. No. 89.20, 4-27-90; Ord. No. 97.55, 12-11-97)

**Sec. 2-157. Repealed.**

(Ord. No. 91.18, 7-25-91; Ord. No. 97.55, 12-11-97)

**Sec. 2-158. Repealed.**

(Ord. No. 91.18, 7-25-91; Ord. No. 97.55, 12-11-97)

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<sup>4</sup>**Editor's note**—Ord. No. 97.55 repealed §§ 2-146 through 2-160 and enacted new chapter 26A, Procurement and materials management.

**Sec. 2-159. Repealed.**

(Ord. No. 91.18, 7-25-91; Ord. No. 97.55, 12-11-97)

**Sec. 2-160. Repealed.**

(Ord. No. 91.18, 7-25-91; Ord. No. 97.55, 12-11-97)

DIVISION 2. CLAIMS AND DEMANDS AGAINST CITY<sup>5</sup>

**Sec. 2-161. Repealed.**

(Code 1967, § 13-11; Ord. No. 96.13, 6-6-96)

**Sec. 2-162. Repealed.**

(Ord. No. 1101, § I, 8-16-84; Ord. No. 96.13, 6-6-96; Ord. No. 2012.47, 10-18-12)

**Sec. 2-163. Repealed.**

(Code 1967, §§ 13-13, 13-14; Ord. No. 1101, § II, 8-16-84; Ord. No. 96.13, 6-6-96; Ord. No. 2001.17, 7-26-01; Ord. No. 2010.02, 2-4-10; Ord. No. 2012.47, 10-18-12)

**Sec. 2-164. Repealed.**

(Code 1967, § 13-15; Ord. No. 96.13, 6-6-96; Ord. No. 2012.47, 10-18-12)

**Sec. 2-165. Repealed.**

(Ord. No. 1101, § III, 8-16-84; Ord. No. 96.13, 6-6-96)

**Sec. 2-166. Repealed.**

(Code 1967, § 13-17; Ord. No. 2012.47, 10-18-12)

**Secs. 2-167—2-179. Reserved.**

DIVISION 3. INVESTMENTS

**Sec. 2-180. Investment of temporarily idle funds.**

(a) *Definitions.* The following words, terms and phrases, when used in this section, shall have the meanings ascribed to them in this subsection, except where the context clearly indicates a different meaning:

- (1) *Temporarily idle funds* means public money which is not immediately required to meet normal operating requirements of the city.
- (2) *Permissible investments:*

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<sup>5</sup> **Editor's note**—Ord. No. 2012.47 repealed §§ 2-162 through 2-164 and § 2-166 and moved them to a new Article VII – Risk Management, Division 2 – Claims and Demands Against City.

**State law reference**—Actions against a public utilities or public employees, A.R.S. § 12-820 et seq.

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- a. Obligations of the United States Government, its agencies and instrumentalities;
- b. Fully insured or collateralized certificates of deposit and other evidences of deposit at banks and savings and loan associations;
- c. Bankers' acceptances issued by the ten (10) largest domestic banks and the twenty (20) largest international banks, provided collateral meets the standards set by the finance and technology director;
- d. A-I/P-I rated commercial paper secured by an irrevocable line of credit or collateralized by U.S. government securities;
- e. Repurchase agreements whose underlying collateral consist of the foregoing;
- f. Money market funds whose portfolios consist of the foregoing;
- g. The State of Arizona's Local Government Investment Pool.

(b) *Prudent person rule.* Investments shall be made with judgment and care, under circumstances then prevailing, which persons of prudence, discretion and intelligence exercise in the management of their own affairs, not for speculation, but for investment, considering the probable safety of their capital as well as the probably income to be derived.

(c) *Authorization.* The finance and technology director shall have the authority to purchase and invest temporarily idle public funds in accordance with written policies. Such investment policies shall address liquidity, diversification, safety of principal, yield, maturity and quality, and the capability of investment management, with primary emphasis on safety and liquidity.

(Code 1967, §§ 13-1—13-3; Ord. No. 90.28, 7-12-90; Ord. No. 2001.17, 7-26-01; Ord. No. 2010.02, 2-4-10)

**ARTICLE V. BOARDS, COMMISSIONS, ETC.<sup>6</sup>**

**DIVISION 1. GENERALLY**

**Sec. 2-181. Powers and duties.**

(a) All boards and commissions established by the city shall have the following powers and duties unless otherwise specified:

- (1) To act in an advisory capacity to the city council for the purpose of making recommendations consistent with its duties;
- (2) To establish such rules and regulations as it deems necessary for its government and for the faithful performance of its duties; to set a time for regular meetings which shall be held at least once a month if there is business to transact; to establish the manner in which special meetings may be held and the notice to be given thereof; and to provide that a majority of the total number of members shall constitute a quorum. The affirmative vote of a majority of the members participating in the meeting shall be required for passage of any matter before the board;
- (3) To organize by electing one of its members as chairman of the board and one as vice-chairman. The city staff representative assigned to the board or commission shall act as secretary but shall not be entitled to take part in any voting;
- (4) To require attendance of the members at regular meetings and provide that absence from three (3) consecutive regular meetings or six (6) meetings within any twelve (12) month time period without consent from the chairman or vice-chairman if the chairman is unavailable, shall be deemed to constitute a resignation and such position shall thereupon be deemed vacant;
- (5) To consult, through the chairman of the board, or the vice-chairman if the chairman is unavailable, with the assigned city department on the items to be included on the agenda of the meetings prior to preparation and distribution of the agenda by the assigned city department; and
- (6) To review and approve the official minutes of the board or commission as prepared by the assigned city department no later than thirty (30) days after the meeting or commission and if such minutes cannot be approved, for any reason,

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<sup>6</sup>**Charter reference**—Boards and commissions, § 6.01 et seq.

**Cross references**—Building code, electrical code, and plumbing and mechanical code advisory board of appeals, § 8-110; historic preservation commission, § 14A-3.

**Zoning and Development Code reference**—Development review commission, Section 1-312.

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within such period of time, such minutes shall be transferred to the city council without approval.

(b) All boards and commissions shall have the authority to create subcommittees, subject to the following restrictions:

- (1) Subcommittees shall be created upon written notice to the city council. The request shall state in detail the purpose for its creation, the members of the board or commission who will comprise its membership and the anticipated additional resources needed to adequately staff the subcommittee;
- (2) All subcommittees shall sunset within one (1) year of creation, or until its intended purpose has been met. The city council may dissolve a subcommittee at any time;
- (3) All members of subcommittees must be current members of originating board or commission;
- (4) No board or commission may have more than two (2) active subcommittees at the same time; and
- (5) Subcommittees must meet all requirements of state law, the city charter and this code.

(Ord. No. 2008.01, 1-24-08; Ord. No. 2008.68, 11-20-08; Ord. No. 2012.35, 8-9-12)

### **Sec. 2-182. Terms and removal.**

(a) The mayor, with the approval of the city council, shall select for appointment and reappointment the members of each board and commission. Unless otherwise specified, the members of each board and commission shall be selected from residents of the city.

(b) The term of office for each member of the board and commission shall be from the first of January of each year and end on the 31st day of December, three (3) years thereafter except if otherwise provided in this article.

(c) Members of the board and commission may not serve more than three (3) total terms on any board or commission, and not more than two (2) complete consecutive terms.

(d) Any vacancy shall be filled for the unexpired term of the member whose office is vacant in the same manner as such member received original appointment.

(e) The mayor, with the approval of the city council, may for cause remove any member of the board or commission.

(Ord. No. 2008.01, 1-24-08)

**Sec. 2-183. Compensation of members.**

Members shall receive no compensation for their service.  
(Ord. No. 2008.01, 1-24-08)

**Secs. 2-184—2-190. Reserved.**

**DIVISION 2. HISTORY MUSEUM AND LIBRARY ADVISORY BOARD**

**Sec. 2-191. Established; composition.**

(a) There is hereby established the Tempe history museum and library advisory board of the city to be composed of nine (9) members.

(b) The community services director shall designate a staff representative to serve the history museum and library advisory board in an advisory capacity.  
(Ord. No. 1079, § 1, 6-21-84; Ord. No. 2008.01, 1-24-08; Ord. No. 2010.02, 2-4-10; Ord. No. O2014.22, 6-12-14; Ord. No. O2014.36, 9-4-14)

**Sec. 2-192. Repealed.**

(Ord. No. 1079, § 2-4, 6-21-84; Ord. No. 2008.01, 1-24-08)

**Sec. 2-193. Repealed.**

(Ord. No. 1079, § 5, 6-21-84; Ord. No. 2001.17, 7-26-01; Ord. No. 2008.01, 1-24-08)

**Sec. 2-194. Officers.**

The officers of the history museum and library advisory board shall be selected by the board members at the first meeting of the board following the thirtieth day of June of each year, and shall serve until the thirtieth day of June of the next succeeding year. No officer shall serve in the same capacity for more than two (2) consecutive one year terms.  
(Ord. No. 1079, § 6, 6-21-84; Ord. No. O2014.22, 6-12-14; Ord. No. O2014.36, 9-4-14)

**Sec. 2-195. Powers and duties.**

The history museum and library advisory board shall have the following powers and duties:

- (1) To assist and advise the city council, in conjunction with the community services director and the historic preservation commission in the establishment of essential policies, rules and regulations relating to the planning, acquisition, disposition, operation, use, care and maintenance of areas and structures owned, leased or otherwise acquired by the city for use as historical museums or interpretive sites;
- (2) To assist and advise the city council, in conjunction with the community services director, in the establishment of essential policies, rules and regulations relating to the planning, acquisition, disposition, operation, use, care and

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maintenance of structures owned, leased or otherwise acquired by the city for use as libraries;

- (3) To assist and advise the city council in the establishment of essential policies, rules and regulations relating to the acquisition, conservation and use of historical materials and artifacts and library materials;
- (4) To assist and advise the community services department staff liaison in the development of a continuing plan for the city's history museum program and for the city's library program;
- (5) To assist and advise the community services department in establishing priorities at budget time for those items other than administrative functions relating to history museum policy and library policy;
- (6) To receive, accept and acquire subject to final action by the city council by gift, bequest or devise real and personal property of every kind, nature and description in the name of the city for history museum purposes or for library purposes subject to the terms of the gift; and
- (7) To suggest to the mayor and city council qualified and interested persons eligible for appointment for board vacancies.

(Ord. No. 1079, § 7, 6-21-84; Ord. No. 96.50, 1-9-97; Ord. No. 2001.17, 7-26-01; Ord. No. 2008.01, 1-24-08; Ord. No. 2010.02, 2-4-10; Ord. No. O2014.22, 6-12-14; Ord. No. O2014.36, 9-4-14)

**Secs. 2-196—2-199. Reserved.**

## DIVISION 3. MUNICIPAL ARTS COMMISSION

**Sec. 2-200. Establishment; composition.**

(a) There is hereby established a Tempe municipal arts commission for the city to be composed of thirteen (13) members.

(b) The community services director or his designee shall serve the commission in an advisory capacity.

(Ord. No. 88.62, 9-8-88; Ord. No. 2008.01, 1-24-08; Ord. No. 2010.02, 2-4-10; Ord. No. O2014.22, 6-12-14)

**Sec. 2-201. Repealed.**

(Ord. No. 88.62, 9-8-88; Ord. No. 2008.01, 1-24-08)

**Sec. 2-202. Repealed.**

(Ord. No. 88.62, 9-8-88; Ord. No. 95.21, 7-20-95; Ord. No. 96.39, 10-24-96; Ord. No. 2001.17, 7-26-01; Ord. No. 2008.01, 1-24-08)

**Sec. 2-203. Officers.**

The officers of the commission shall be selected by the commission members at the first meeting of the commission following the thirty first day of December of each year, and shall serve until the thirty-first day of December of the next succeeding year. No officer shall serve in the same capacity for more than two (2) consecutive one-year terms.  
(Ord. No. 88.62, 9-8-88)

**Sec. 2-204. Powers and duties.**

The commission shall have the following powers and duties:

- (1) To assist and advise the city council, through the community services department, in the development of a municipal arts plan and any subplans thereto;
- (2) To assist and advise the city council, through the community services department, in the establishment of essential policies, rules and regulations relating to the presentation, acquisition, disposition, maintenance, use, care and promotion of public arts within the city;
- (3) To recommend to the city council, through the community services department, a yearly update to the municipal arts plan based upon projected revenues from the municipal arts fund. Revenue projections will be supplied to the commission by the city's community services director. The plan will include recommended programs and activities as well as proposed sites for placement of public art and estimated cost of purchases for each site. The plan will be updated annually in conjunction with the city's annual budget process;
- (4) To recommend to the city council, through the community services department, a method or methods of selecting and commissioning artists; and
- (5) To recommend to the city council, through the community services department, the selection and commissioning of artists for the placement of works of art on public sites approved by the city council. Recommendations will include estimates of all costs, including any operational and maintenance costs.

(Ord. No. 88.62, 9-8-88; Ord. No. 95.21, 7-20-95; Ord. No. 96.39, 10-24-96; Ord. No. 2001.17, 7-26-01; Ord. No. 2008.01, 1-24-08; Ord. No. 2010.02, 2-4-10)



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### DIVISION 4. SPONSORSHIP REVIEW COMMITTEE

#### **Sec. 2-205. Established; composition.**

(a) There is hereby established a sponsorship review committee to be composed of seven (7) members.

(b) Three (3) members of the committee shall be appointed by the Tempe Convention and Visitors Bureau ("TCVB") board of directors. Three (3) members shall be appointed by the mayor with the approval of the city council. One member of the committee shall be jointly appointed by the mayor, with council approval, and the TCVB board of directors.

(c) The community services director or a designated staff representative shall serve the sponsorship review committee in an advisory capacity.  
(Ord. No. 92.41, 8-27-92; Ord. No. 2008.01, 1-24-08; Ord. No. 2008.10, 2-21-08; Ord. No. 2010.02, 2-4-10)

#### **Sec. 2-206. Repealed.**

(Ord. No. 92.41, 8-27-92; Ord. No. 2008.01, 1-24-08)

#### **Sec. 2-207. Repealed.**

(Ord. No. 92.41, 8-27-92; Ord. No. 97.20, 4-10-97; Ord. No. 2001.17, 7-26-01; Ord. No. 2005.18, 4-7-05; Ord. No. 2006.25, 4-6-06; Ord. No. 2008.01, 1-24-08)

#### **Sec. 2-208. Officers.**

The TCVB director and CEO shall serve as committee chairperson.  
(Ord. No. 92.41, 8-27-92; Ord. No. 2008.10, 2-21-08)

#### **Sec. 2-209. Powers and duties.**

The sponsorship review committee shall have the following powers and duties:

- (1) To make recommendation(s) to the TCVB board of directors and the city council concerning city sponsorship, type of sponsorship and degree of sponsorship for the majority of requests received by the city on an annual basis for both traditionally sponsored events and for new requests; and
- (2) To make funding and services decisions concerning new events from monies previously appropriated by the city council and the TCVB board of directors.  
(Ord. No. 92.41, 8-27-92; Ord. No. 97.20, 4-10-97; Ord. No. 2001.17, 7-26-01; Ord. No. 2005.18, 4-7-05; Ord. No. 2006.25, 4-6-06; Ord. No. 2008.01, 1-24-08; Ord. No. 2008.10, 2-21-08)

**Sec. 2-210. Funding requirements.**

The city and the TCVB shall each contribute an equal amount to a joint sponsorship fund, as determined by the TCVB and the city council during their respective annual budget processes. (Ord. No. 92.41, 8-27-92; Ord. No. 97.20, 4-10-97; Ord. No. 2001.17, 7-26-01; Ord. No. 2005.18, 4-7-05; Ord. No. 2006.25, 4-6-06; Ord. No. 2008.10, 2-21-08)

**Sec. 2-211. Repealed.**

(Ord. No. 92.41, 8-27-92; Ord. No. 97.20, 4-10-97; Ord. No. 2001.17, 7-26-01; Ord. No. 2005.18, 4-7-05; Ord. No. 2006.25, 4-6-06; Ord. No. 2008.10, 2-21-08)

**Sec. 2-212. Repealed.**

(Ord. No. 92.41, 8-27-92; Ord. No. 97.20, 4-10-97; Ord. No. 2001.17, 7-26-01; Ord. No. 2005.18, 4-7-05; Ord. No. 2006.25, 4-6-06; Ord. No. 2008.10, 2-21-08)

**Secs. 2-213—2-214. Reserved.**

DIVISION 5. AVIATION COMMISSION

**Sec. 2-215. Established; composition.**

(a) There is hereby established the Tempe aviation commission to be composed of nine (9) members.

(b) In addition to the terms of office as specified in § 2-182 of this article, terms shall be staggered so that the term of no more than four (4) members shall conclude in any given year.

(c) There shall be commission members from neighborhoods located in geographic areas throughout the community that are impacted by aircraft operations including areas within the LDN 65 noise contour for the Phoenix Sky Harbor International Airport.

(d) The city manager or his designee shall serve the aviation commission in an advisory capacity.

(Ord. No. 95.15, 4-27-95; Ord. No. 2008.01, 1-24-08; Ord. No. 2010.36, 11-4-10; Ord. No. O2014.22, 6-12-14)

**Sec. 2-216. Repealed.**

(Ord. No. 95.15, 4-27-95; Ord. No. 2008.01, 1-24-08)

**Sec. 2-217. Repealed.**

(Ord. No. 95.15, 4-27-95; Ord. No. 2008.01, 1-24-08)

**Sec. 2-218. Repealed.**

(Ord. No. 95.15, 4-27-95; Ord. No. 2008.01, 1-24-08)

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### **Sec. 2-219. Officers.**

The initial officers of the commission shall be selected by the mayor, with the approval of the city council. Thereafter, the officers of the commission shall be selected by the commission members at the first meeting of commission following the 31st day of December of each year and shall serve from January 1 until the 31st day of December of the next succeeding year. No officer may serve in the same capacity for more than three (3) consecutive one-year terms. (Ord. No. 95.15, 4-27-95)

### **Sec. 2-220. Powers and duties.**

The aviation commission shall have the following powers and duties:

- (1) To advise the mayor and city council and assist city departments regarding the impact of aircraft and airport operations on Tempe residents;
- (2) To advise the mayor and city council and assist city departments in the monitoring, implementation and enforcement of agreements made between the City of Phoenix and the City of Tempe concerning the operations of Sky Harbor International Airport;
- (3) To advise the mayor and city council and assist city department in studies conducted of local airports and their development, with regard to potential impacts on Tempe residents; and
- (4) To advise the mayor and city council and assist city departments on land use measures that could mitigate the impact of aircraft and airport operations.

(Ord. No. 95.15, 4-27-95; Ord. No. 2008.01, 1-24-08; Ord. No. 2010.36, 11-4-10)

### **Secs. 2-221—2-224. Reserved.**

## DIVISION 6. HUMAN RELATIONS COMMISSION

### **Sec. 2-225. Established; composition.**

(a) There is hereby established the Tempe human relations commission to be composed of eleven (11) members.

(b) The city manager or his designee shall serve the human relations commission in an advisory capacity.

(Ord. No. 95.18, 6-1-95; Ord. No. 2008.01, 1-24-08; Ord. No. O2014.22, 6-12-14)

### **Sec. 2-226. Repealed.**

(Ord. No. 95.18, 6-1-95; Ord. No. 2008.01, 1-24-08)

### **Sec. 2-227. Repealed.**

(Ord. No. 95.18, 6-1-95; Ord. No. 2008.01, 1-24-08)

**Sec. 2-228. Repealed.**

(Ord. No. 95.18, 6-1-95; Ord. No. 2008.01, 1-24-08)

**Sec. 2-229. Officers.**

The initial officers of the commission shall be selected by the mayor with the approval of the city council. Thereafter, the officers of the commission shall be selected by the commission members at the first meeting of commission following the 31st day of December of each year and shall serve from January 1 until the 31st day of December of the next succeeding year. No officer may serve in the same capacity for more than three (3) consecutive one-year terms.

(Ord. No. 95.18, 6-1-95)

**Sec. 2-230. Powers and duties.**

The human relations commission shall have the following powers and duties:

- (1) To advise the mayor and city council and assist city departments in promoting mutual understanding and respect among the many groups of people who live, work and spend time in our community;
- (2) To advise the mayor and city council and assist city departments on ways to eliminate prejudice and discrimination;
- (3) To advise the mayor and city council and assist city departments on ways in which people from different cultural backgrounds can be made to feel at home in the community; and
- (4) To advise the mayor and city council and assist city departments on ways in which information on human relations topics can be disseminated including: conducting surveys and studies, convening forums, seminars and workshops, and sponsoring special event and award recognitions.

(Ord. No. 95.18, 6-1-95; Ord. No. 2008.01, 1-24-08)

**Secs. 2-231—2-234. Reserved.**

DIVISION 7. PARKS, RECREATION, GOLF,  
AND DOUBLE BUTTE CEMETERY ADVISORY BOARD

**Sec. 2-235. Established; composition.**

(a) There is hereby established a parks, recreation, golf, and double butte cemetery advisory board for the city to be composed of eleven (11) members as an advisory board to city council.

(b) The city manager shall designate a staff representative to serve the parks, recreation, golf, and double butte cemetery advisory board in an advisory capacity.

(Ord. No. 96.16, 8-29-96; Ord. No. 2008.01, 1-24-08; Ord. No. 2010.02, 2-4-10; Ord. No. 2010.03, 3-4-10; Ord. No. O2014.22, 6-12-14)

**Sec. 2-236. Repealed.**

(Ord. No. 96.16, 8-29-96; Ord. No. 2008.01, 1-24-08)

**Sec. 2-237. Repealed.**

(Ord. No. 96.16, 8-29-96; Ord. No. 2008.01, 1-24-08)

**Sec. 2-238. Repealed.**

(Ord. No. 96.16, 8-29-96; Ord. No. 2001.17, 7-26-01; Ord. No. 2006.25, 4-6-06; Ord. No. 2008.01, 1-24-08)

**Sec. 2-239. Officers.**

The officers of the board shall be selected by the board members at the first meeting of the board following the first day of September of each year and shall serve until the 31st day of August of the next succeeding year.

(Ord. No. 96.16, 8-29-96; Ord. No. 2010.03, 3-4-10)

**Sec. 2-240. Powers and duties.**

The parks, recreation, golf, and double butte cemetery advisory board shall have the following powers and duties:

- (1) To advise the city council and assist the city manager in the establishment of essential policies, rules and regulations relating to the planning, acquisition, disposition, operation, use, care and maintenance of golf facilities owned, leased or otherwise acquired by the city for use as municipal golf courses;
- (2) To advise the city council and assist city staff in the establishment of essential policies, management plans, rules and regulations relating to the planning, acquisition, disposition, operation, use, care and maintenance of areas and structures owned, leased or otherwise acquired by the city for use as parks and preserves;
- (3) To advise the city council and assist city staff in the establishment of essential policies, management plans, rules and regulations relating to the acquisition, conservation, and use of parks and preserves;
- (4) To assist and advise the city council, through the community services department, in the establishment of essential policies, rules and regulations relating to the planning, acquisition, disposition, operation, use, care, maintenance, design and construction of cemetery facilities owned, leased or otherwise acquired by the city;
- (5) To assist the community services department and other city departments in establishing priorities at budget time for those items other than administrative

functions relating to golf, park, preserve and recreation policy. The recommendations of the committee shall be forwarded to the city council;

- (6) To assist and advise the city council in establishing priorities at budget time for those items other than administrative functions relating to the cemetery. The recommendations of the committee shall be forwarded to the city council;
- (7) To assist the community services department staff liaison in the development of a continuing plan for the city's park and recreation program;
- (8) To receive, accept and acquire subject to final action by the city council by gift, bequest or devise real and personal property of every kind, nature and description in the name of the city for park and preserve purposes subject to the terms of the gift;
- (9) To suggest to the mayor and city council qualified and interested persons eligible for appointment for board vacancies; and
- (10) To serve as the city tree board with the responsibility to study, develop, update annually and administer a written plan for the care, management, planting, replanting and removal or disposition of trees and shrubs within parks, preserves, street rights-of-way and public places owned by the city to ensure that the city will continue to realize the benefits provided by an urban forest. Such plan will be presented to the city council and upon their acceptance and approval shall constitute the official city tree plan for the city.

(Ord. No. 96.16, 8-29-96; Ord. No. 2001.17, 7-26-01; Ord. No. 2006.25, 4-6-06; Ord. No. 2008.01, 1-24-08; Ord. No. 2010.02, 2-4-10; Ord. No. 2010.03, 3-4-10; Ord. No. O2014.22, 6-12-14; Ord. No. O2014.51, 10-2-14)

**Secs. 2-241—2-244. Reserved.**

## DIVISION 8. TRANSPORTATION COMMISSION

**Sec. 2-245. Established; composition.**

(a) There is hereby established a transportation commission consisting of fifteen (15) members.

(b) The director of the public works department or a designated staff representative shall serve the transportation commission in an advisory capacity.

(Ord. No. 96.28, 8-29-96; Ord. No. 2008.01, 1-24-08; Ord. No. 2010.02, 2-4-10)

**Sec. 2-246. Repealed.**

(Ord. No. 96.28, 8-29-96; Ord. No. 2004.52, 12-9-04; Ord. No. 2008.01, 1-24-08)

**Sec. 2-247. Repealed.**

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(Ord. No. 96.28, 8-29-96; Ord. No. 2008.01, 1-24-08)

### **Sec. 2-248. Repealed.**

(Ord. No. 96.28, 8-29-96; Ord. No. 2001.17, 7-26-01; Ord. No. 2008.01, 1-24-08)

### **Sec. 2-249. Officers.**

The officers of the commission shall be selected by the commission members at the first meeting of the commission following the 31st day of December of each year and shall serve until the 31st day of December of the next succeeding year. No officer shall serve in the same capacity for more than two (2) consecutive one-year terms.

(Ord. No. 96.28, 8-29-96)

### **Sec. 2-250. Powers and duties.**

The transportation commission shall have the following powers and duties:

- (1) To suggest to the mayor and city council qualified and interested persons eligible for appointment for commission vacancies;
- (2) To consult, through the chairman of the commission, with the public works department, as to the items to be included on the agenda of meetings of the commission prior to the preparation and distribution of the agenda by the public works department;
- (3) To prepare and submit an annual report to the city manager and city council including applicable council committees;
- (4) To advise and make recommendations to the city council and to assist city departments and the city manager to plan and implement a balanced transportation system within Tempe which incorporates all forms of transportation in a unified, interconnected manner and complements land use, making a positive environmental impact through reduction of energy consumption, air pollution and congestion, while promoting economic development and providing mobility for all persons, including elderly and disabled;
- (5) To advise and make recommendations to the city council and to assist city departments and the city manager on appropriate performance standards and benchmarks for use in evaluating the city's transportation system and program, based on nationally recognized guidelines and local priorities;
- (6) To advise and make recommendations to the city council and to assist city departments and the city manager on transportation plans, projects and ordinances, including but not limited to:

- a. To recommend and review short and long-range plans and studies for the city's transportation system, including streets, transit, bicycling, pedestrians and demand management;
  - b. To periodically review and update the transportation elements of the city's general plan;
  - c. To provide input and review regional, state and federal transportation plans, projects and issues especially as provided by federal law; and
  - d. To promote and maintain bicycling as a safe and effective mode of travel for recreation, health and transportation.
- (7) To advise and recommend to the city council and to assist city departments and the city manager annually on the elements of prioritized, unified operating and capital improvement program budgets for transportation;
- (8) To provide a forum for public hearings and other public involvement mechanisms to assure community-based transportation plans, projects and issues, and to meet all federal and other guidelines for public involvement in transportation projects where applicable; and
- (9) To take any such further actions as may be deemed necessary and appropriate to further the goals of the commission.
- (Ord. No. 96.28, 8-29-96; Ord. No. 2001.17, 7-26-01; Ord. No. 2004.52, 12-9-04; Ord. No. 2008.01, 01-24-08)

**Secs. 2-251—2-254. Reserved.**

#### DIVISION 9. MAYOR'S YOUTH ADVISORY COMMISSION

**Sec. 2-255. Established; composition.**

- (a) There is hereby established a mayor's youth advisory commission to be composed of twenty-four (24) members.
- (b) The twenty-four (24) members of the mayor's youth advisory commission shall be selected from residents of the city, or attend school within the city, enrolled in seventh through twelfth grades.
- (c) Membership shall be composed of at least one representative from each Tempe Elementary School District No. 3 and Kyrene School District middle school located within the city and at least two (2) representatives from each Tempe Union High School District school located within the city. Remaining members will be selected at large and shall reside in Tempe or attend school within the city.



(d) The community services director or his designee shall serve the mayor's youth advisory commission in an advisory capacity.

(Ord. No. 97.07, 2-27-97; Ord. No. 2008.01, 01-24-08; Ord. No. 2010.02, 2-4-10)

**Sec. 2-256. Repealed.**

(Ord. No. 97.07, 2-27-97; Ord. No. 2000.38, 1-25-01; Ord. No. 2008.01, 01-24-08)

**Sec. 2-257. Repealed.**

(Ord. No. 97.07, 2-27-97; Ord. No. 2001.17, 7-26-01; Ord. No. 2008.01, 01-24-08)

**Sec. 2-258. Officers.**

The officers of the mayor's youth advisory commission shall be selected by the commission members at the first meeting of the commission following the first day of October of each year and shall serve until the first meeting of the commission following the first day of October of the next succeeding year. No officer shall serve in the same capacity for more than two (2) consecutive terms.

(Ord. No. 97.07, 2-27-97)

**Sec. 2-259. Powers and duties.**

The mayor's youth advisory commission shall have the following powers and duties:

- (1) To make recommendation(s) to the mayor and city council concerning the interests, needs and welfare of the youth within the community on an annual basis;
- (2) To advise the mayor and city council and assist city departments on any topic the commission feels is appropriate regarding youth issues and related matters within the city;
- (3) To advise the mayor and city council and assist city departments on ways in which information regarding youth issues can be disseminated including: conducting surveys and studies, convening forums, seminars and workshops, and sponsoring special event and award recognitions;
- (4) To encourage and promote the education of youth regarding city government and the importance of citizen input, participation and responsibility; and
- (5) To solicit from each of the city's middle and high schools qualified and interested persons eligible for appointment for commission vacancies and forward those names to the mayor and city council.

(Ord. No. 97.07, 2-27-97; Ord. No. 2001.17, 7-26-01; Ord. No. 2008.01, 01-24-08)

**Secs. 2-260—2-264. Reserved.**

DIVISION 10. COMMISSION ON DISABILITY CONCERNS

**Sec. 2-265. Established; composition.**

(a) There is hereby established a commission on disability concerns for the city to be composed of nine (9) members.

(b) The city manager or his designee shall designate a city staff representative to serve as advisory capacity for the commission on disability concerns.

(Ord. No. 96.45, 12-12-96; Ord. No. 2008.01, 01-24-08; Ord. No. O2014.22, 6-12-14)

**Sec. 2-266. Repealed.**

(Ord. No. 96.45, 12-12-96; Ord. No. 2008.01, 01-24-08)

**Sec. 2-267. Repealed.**

(Ord. No. 96.45, 12-12-96; Ord. No. 2008.01, 01-24-08)

**Sec. 2-268. Repealed.**

(Ord. No. 96.45, 12-12-96; Ord. No. 2008.01, 01-24-08)

**Sec. 2-269. Officers.**

The initial officers of the commission shall be selected by the mayor, with the approval of the city council. Thereafter, the officers of the commission shall be selected by the commission members at the first meeting of the commission following the first day of July of each year and shall serve until the 30th day of June of the next succeeding year.

(Ord. No. 96.45, 12-12-96)

**Sec. 2-270. Powers and duties.**

The commission on disability concerns shall have the following powers and duties:

- (1) To suggest to the mayor and city council qualified and interested persons for appointment to commission vacancies;
- (2) To advise and make recommendations to the city council and to assist city departments and the city manager in the establishment of essential policies, rules and regulations relating to compliance with federal and state disabilities legislation or regulations and on other disabilities concerns and issues as needed;
- (3) To prepare and submit an annual report to the city manager and city council; and
- (4) To take further actions as may be deemed necessary and appropriate to further the goals of the commission.

(Ord. No. 96.45, 12-12-96; Ord. No. 2008.01, 01-24-08)

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### **Secs. 2-271—2-274. Reserved.**

#### DIVISION 11. RIO SALADO CITIZEN ADVISORY COMMISSION

##### **Sec. 2-275. Repealed.**

(Ord. No. 96.49, 12-12-96; Ord. No. 2003.07, 3-27-03; Ord. No. 2008.01, 01-24-08, Ord. No. 2010.03, 3-4-10)

##### **Sec. 2-276. Repealed.**

(Ord. No. 96.49, 12-12-96; Ord. No. 2008.01, 01-24-08)

##### **Sec. 2-277. Repealed.**

(Ord. No. 96.49, 12-12-96; Ord. No. 2008.01, 01-24-08)

##### **Sec. 2-278. Repealed.**

(Ord. No. 96.49, 12-12-96; Ord. No. 2005.18, 4-7-05; Ord. No. 2008.01, 01-24-08)

##### **Sec. 2-279. Repealed.**

(Ord. No. 96.49, 12-12-96, Ord. 2010.03, 3-4-10)

##### **Sec. 2-280. Repealed.**

(Ord. No. 96.49, 12-12-96; Ord. No. 2003.07, 3-27-03; Ord. No. 2005.18, 4-7-05; Ord. No. 2008.01, 01-24-08, Ord. 2010.03, 3-4-10)

### **Secs. 2-281—2-284. Reserved.**

#### DIVISION 12. TEMPE CITIZENS' PANEL FOR REVIEW OF POLICE COMPLAINTS AND USE OF FORCE

##### **Sec. 2-285. Established; composition.**

(a) There is hereby established a Tempe citizens' panel for review of police complaints and use of force ("panel") to be composed of fifteen (15) citizen members and four (4) police department members consisting of two (2) sergeants and two (2) line level officers, who shall serve for a two (2) year term. The police department members shall be selected by the chief.

(b) When functioning as a review sub-panel as described in § 2-288, each sub-panel shall consist of six (6) citizen members and two (2) police department members consisting of one sergeant and one line level officer. The citizen members of each sub-panel shall be selected by the city manager. The police department members of each sub-panel shall be selected by the chief.

(c) The chief shall appoint an assistant chief to serve as the non-voting chairperson/facilitator of the panel and each sub-panel.

(d) This panel shall act in an advisory capacity to the chief of police and the city manager.

(e) The fifteen (15) citizen members of the panel shall be selected from residents of the city. The mayor will make three (3) selections and each council member will make two (2) selections.

(f) The term of office of citizen members shall be for three (3) years and shall commence on the first day of January of each year and end on the 31st day of December, three (3) years thereafter, except for the initial citizen members of the panel. Such terms shall be staggered so that the term of no more than five (5) citizen members shall conclude in any given year.

(g) Citizen members of the panel may not serve more than two (2) complete consecutive terms. Any citizen member vacancies shall be filled for the remainder of the unexpired term in the same manner as such citizen member received original appointment.

(h) The city manager may for cause remove any citizen member of the panel.

(i) Prospective citizen panel members may not serve if any of the following apply:

- (1) Have been arrested by the Tempe police department within the last five (5) years;
- (2) Have any felony convictions;
- (3) Are related directly to a Tempe police department employee;
- (4) Are a current or former Tempe police department employee;
- (5) Are a former employee of any other police agency within five (5) years of their police employment; or
- (6) Are an adversary party, a representative of an adversary party, or have any financial litigation or claim against the city relating to the police department or any individual in the police department.

(Ord. No. 99.13, 7-15-99; Ord. No. 2008.01, 01-24-08; Ord. No. 2008.68, 11-20-08)

**Sec. 2-286. Repealed.**

(Ord. No. 99.13, 7-15-99; Ord. No. 2008.01, 01-24-08)

**Sec. 2-287. Repealed.**

(Ord. No. 99.13, 7-15-99; Ord. No. 2008.68, 11-20-08)

**Sec. 2-288. Powers and duties.**

(a) The Tempe citizens' panel for review of police complaints and use of force shall have the following powers and duties:

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- (1) To review such rules and regulations as it deems necessary for its government and for the faithful performance of its duties; and
  - (2) To provide six (6) members of the panel for each sub-panel. A total of six (6) members of the sub-panel (officers and citizens) shall constitute a sub-panel quorum. The affirmative vote of five (5) members of each sub-panel shall be required for passage of any matter before the panel.
- (b) The sub-panel shall have the following powers and duties:
- (1) To review all police shootings and any police incidents wherein direct physical force by the police results in serious injury or death. Serious injury is defined as physical injury that creates a reasonable risk of death, or that causes serious and permanent disfigurement, serious impairment of health or loss or protracted impairment of the function of any bodily organ or limb;
  - (2) To review the findings of the police department's investigation of unsustained, unfounded or exonerated citizen complaints, when that citizen requests a review of the police department's findings. A request for review must be made within thirty (30) days from the date the citizen is notified of the findings of the police department's investigation; and
  - (3) To review any police department incident, at the request of the chief of police.
- (c) After a review of the record, each review panel shall make one of the following findings in a written report to the chief of police:
- (1) Agree with the findings of the police department investigation;
  - (2) Disagree with the findings of the police department investigation;
  - (3) Advise the chief of police that further investigation is warranted; or
  - (4) Upon a review of a use of police force incident, the review panel shall make a further finding whether the use of police force was within police department policy.
- (d) The panel may make recommendations to the chief of police concerning training programs, revisions of policies or procedures, commendable actions, preventive or corrective measures (except for employee discipline) as it relates to the sub-panel findings of the incident being reviewed.
- (Ord. No. 99.13, 7-15-99; Ord. No. 2008.68, 11-20-08; Ord. No. 2009.37, 10-22-09)

**Secs. 2-289—2-294. Reserved.**

DIVISION 13. DOUBLE BUTTE CEMETERY ADVISORY COMMITTEE [REPEALED]

**Sec. 2-295. Repealed.**

(Ord. No. 2000.21, 6-8-00; Ord. No. 2006.25, 4-6-06; Ord. No. 2008.01, 01-24-08; Ord. No. 2010.02, 2-4-10; Ord. No. O2014.22, 6-12-14)

**Sec. 2-296. Repealed.**

(Ord. No. 2000.21, 6-8-00; Ord. No. 2008.01, 01-24-08)

**Sec. 2-297. Repealed.**

(Ord. No. 2000.21, 6-8-00; Ord. No. 2008.01, 01-24-08)

**Sec. 2-298. Repealed.**

(Ord. No. 2000.21, 6-8-00; Ord. No. 2001.17, 7-26-01; Ord. No. 2006.25, 4-6-06; Ord. No. 2008.01, 01-24-08)

**Sec. 2-299. Repealed.**

(Ord. No. 2000.21, 6-8-00; Ord. No. O2014.22, 6-12-14)

**Sec. 2-300. Repealed.**

(Ord. No. 2000.21, 6-8-00; Ord. No. 2001.17, 7-26-01; Ord. No. 2006.25, 4-6-06; Ord. No. 2008.01, 01-24-08; Ord. No. 2010.02, 2-4-10; Ord. No. O2014.22, 6-12-14)

**Secs. 2-301—2-304. Reserved.**

DIVISION 14. NEIGHBORHOOD ADVISORY COMMISSION

**Sec. 2-305. Established; composition.**

(a) There is hereby established the neighborhood advisory commission to be composed of fifteen (15) members, and each member must have been a resident of the city for at least one year prior to the appointment.

(b) Members shall be appointed proportionately to the geographic distribution of population by zip codes, subject to change as population shifts occur.

(c) The neighborhood program administrator or his or her designee shall serve the neighborhood advisory commission in an advisory capacity.

(Ord. No. 2000.47, 11-2-00; Ord. No. 2008.01, 01-24-08; Ord. No. O2014.22, 6-12-14)

**Sec. 2-306. Repealed.**

(Ord. No. 2000.47, 11-2-00; Ord. No. 2008.01, 01-24-08)

**Sec. 2-307. Repealed.**

(Ord. No. 2000.47, 11-2-00; Ord. No. 2008.01, 01-24-08)

**Sec. 2-308. Repealed.**

(Ord. No. 2000.47, 11-2-00; Ord. No. 2008.01, 01-24-08)

**Sec. 2-309. Officers.**

The officers of the commission shall be selected by the commission members at the first meeting of the commission following the 31st day of December each year and shall serve from January 1 until the 31st day of December of the next succeeding year. No officer may serve in the same capacity for more than three (3) consecutive one-year terms.

(Ord. No. 2000.47, 11-2-00)

**Sec. 2-310. Powers and duties.**

The neighborhood advisory commission shall have the following powers and duties:

- (1) To organize and appoint members of the commission to serve on standing committees as the need arises, subject to all administrative guidelines adopted by the commission;
- (2) To propose and make recommendations to the mayor and city council and assist city departments on specific programs that are designed to build upon neighborhood opportunities and strengths as well as prevent the decline and deterioration of neighborhoods by recognizing and supporting the aspirations of residents and their neighborhood;
- (3) To review projects and concepts developed or proposed by the neighborhood program office staff, the neighborhood advisory commission and by citizens to the commission;
- (4) To advise the mayor and city council and assist city departments on ways in which information on neighborhood topics can be gathered and disseminated including: conducting surveys and studies, convening forums, seminars and workshops, and sponsoring special event and award recognition;
- (5) Subject to approval and final action by the city council, to receive, accept and acquire by gift, bequest or devise real and personal property of every kind, nature and description in the name of the city for neighborhood purposes subject to the terms of such gift, bequest or devise; and
- (6) To recommend to the mayor and city council qualified and interested persons eligible for appointment for commission vacancies.

(Ord. No. 2000.47, 11-2-00; Ord. No. 2008.01, 01-24-08)

**Secs. 2-311—2-314. Reserved.**

DIVISION 15. REDEVELOPMENT REVIEW COMMISSION<sup>7</sup>

**Sec. 2-315. Repealed.**

(Ord. No. 2002.36, 10-3-02; Ord. No. 2004.42, 1-20-05)

**Sec. 2-316. Repealed.**

(Ord. No. 2002.36, 10-3-02; Ord. No. 2004.42, 1-20-05)

**Sec. 2-317. Repealed.**

(Ord. No. 2002.36, 10-3-02; Ord. No. 2004.42, 1-20-05)

**Sec. 2-318. Repealed.**

(Ord. No. 2002.36, 10-3-02; Ord. No. 2004.42, 1-20-05)

**Sec. 2-319. Repealed.**

(Ord. No. 2002.36, 10-3-02; Ord. No. 2004.42, 1-20-05)

**Secs. 2-320—2-324. Reserved.**

DIVISION 16. TARDEADA ADVISORY BOARD [REPEALED]

**Sec. 2-325. Repealed.**

(Ord. No. 2005.71, 10-6-05; Ord. No. 2008.01, 01-24-08; Ord. No. O2014.22, 6-12-14)

**Sec. 2-326. Repealed.**

(Ord. No. 2005.71, 10-6-05; Ord. No. 2008.01, 01-24-08)

**Sec. 2-327. Repealed.**

(Ord. No. 2005.71, 10-6-05; Ord. No. 2008.01, 01-24-08)

**Sec. 2-328. Repealed.**

(Ord. No. 2005.71, 10-6-05; Ord. No. 2010.02, 2-4-10; Ord. No. O2014.22, 6-12-14)

**Sec. 2-329. Repealed.**

(Ord. No. 2005.71, 10-6-05; Ord. No. O2014.22, 6-12-14)

**Sec. 2-330. Repealed.**

(Ord. No. 2005.71, 10-6-05; Ord. No. 2008.01, 01-24-08; Ord. No. 2010.02, 2-4-10; Ord. No. O2014.22, 6-12-14)

**Secs. 2-331—2-334. Reserved.**

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<sup>7</sup>**Editor's note**—Ord. No. 2004.42 repealed the Redevelopment Review Commission from the City Code and it has been incorporated into the Zoning and Development Code. See Section 1-308 of the Zoning and Development Code.



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### DIVISION 17. PARKS AND RECREATION BOARD<sup>8</sup>

**Sec. 2-335. Repealed.**

(Ord. No. 2008.01, 01-24-08; Ord. No. 2010.02, 2-4-10; Ord. No. 2010.03, 3-4-10)

**Sec. 2-336. Repealed.**

(Ord. No. 2008.01, 01-24-08; Ord. No. 2010.03, 3-4-10)

**Sec. 2-337. Repealed.**

(Ord. No. 2008.01, 01-24-08; Ord. No. 2010.02, 2-4-10; Ord. No. 2010.03, 3-4-10)

**Sec. 2-338. Rio Salado park.**

Notwithstanding the powers and duties of the parks, recreation and golf advisory board in § 2-240, the Rio Salado community facilities district board of directors shall have the power to advise the city council in the establishment of essential policies, rules and regulations for the portion of Rio Salado park within the enhanced services area.

(Ord. No. 2008.01, 01-24-08)

**Secs. 2-339—2-344. Reserved.**

### DIVISION 18. LIBRARY ADVISORY BOARD<sup>9</sup> [REPEALED]

**Sec. 2-345. Repealed.**

(Ord. No. 2008.01, 01-24-08; Ord. No. O2014.22, 6-12-14)

**Sec. 2-346. Repealed.**

(Ord. No. 2008.01, 01-24-08; Ord. No. O2014.22, 6-12-14)

**Secs. 2-347—2-354. Reserved.**

### DIVISION 19. HOUSING TRUST FUND ADVISORY BOARD

**Sec. 2-355. Established; composition.**

(a) There is hereby created a housing trust fund advisory board to be comprised of seven (7) members.

(b) The community development director shall designate a staff representative to serve the housing trust fund board in an advisory capacity.

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<sup>8</sup>**Editor's note**—Ord. No. 2010.03 consolidated the parks and recreation board and golf advisory committee into a single advisory board. Ord. No. 2014.22 consolidated the parks, recreation and golf advisory board with the double butte cemetery advisory committee. See parks, recreation, golf, and double butte cemetery advisory board, §§ 2-235—2-244.

<sup>9</sup>**Editor's note**—Ord. No. 2014.22 consolidated the historical museum advisory board and the library advisory board into a single advisory board. See history museum and library advisory board, §§ 2-191—2-199.

(c) Membership shall be composed of one member with experience or expertise in the subject area of real estate lending practices, one member with experience or expertise in the subject area of housing development or construction best practices, one member with experience or expertise in the subject area of the rental housing industry and four (4) members with experience or expertise in housing related issues.

(Ord. No. 2009.02, 1-22-09; Ord. No. 2009.36, 9-10-09; Ord. No. 2010.02, 2-4-10)

**Sec. 2-356. Officers.**

The officers of the board shall be selected by the board members at the first meeting of the board following the 31st day of December of each year and shall serve until the 31st day of December of the next succeeding year. No officer shall serve in the same capacity for more than two (2) consecutive one-year terms.

(Ord. No. 2009.02, 1-22-09)

**Sec. 2-357. Powers and duties.**

The housing trust fund advisory board shall have the following powers and duties:

- (1) To assist and advise the community development director, or designee, with establishing the goals of the housing trust fund;
- (2) To assist and advise the community development director, or designee, in the establishment of essential policies, rules and regulations relating to the implementation and ongoing operation of the housing trust fund;
- (3) To review applications for funding from the housing trust fund and make recommendations to the community development director, or designee;
- (4) To advise the mayor and city council at least annually on the expenditures, accomplishments and activities of the housing trust fund; and
- (5) To make recommendations to the mayor and city council of qualified and interested persons eligible for appointment to commission vacancies.

(Ord. No. 2009.02, 1-22-09; Ord. No. 2010.02, 2-4-10)

**Secs. 2-358—2-364. Reserved.**

**DIVISION 20. TEMPE VETERANS COMMISSION**

**Sec. 2-365. Established; composition.**

(a) There is hereby established the Tempe veterans commission to be composed of eleven (11) members. The commission will include a member from each of the following existing United States military and veteran service areas:

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- (1) Arizona Coalition of Military Families;
- (2) Arizona Department of Veterans Services;
- (3) Pat Tillman Veterans Center at Arizona State University;
- (4) East Valley Veterans Education Center;
- (5) Phoenix Veteran's Administration Medical Center or other health and wellness organization;
- (6) Housing advocacy and assistance specialist;
- (7) Supportive services agency (e.g. U.S. Vets or Save The Family);
- (8) Returning military veteran with an honorable discharge within 3 years prior to the date of Commission application;
- (9) Retired or prior service United States military veteran;
- (10) Active United States military or reservist; and,
- (11) At large.

(b) In addition to the terms of office as specified in Section 2-182 of this article, terms shall be staggered so that the term of no more than four (4) members shall conclude in any given year. Members shall serve three-year terms for no more than two (2) complete consecutive terms.

(c) The human services director or designee shall serve the veterans commission staff liaison and in an advisory capacity.  
(Ord. No. O2014.52, 10-2-14)

### **Sec. 2-366. Officers.**

Three members shall serve as officers in the capacity of chair, vice-chair and secretary. Terms shall be January to December. The initial officers of the commission shall be selected by the mayor with the approval of the city council to serve a term commencing in January and ending December 31 that same year. Thereafter, the officers of the commission shall be selected by the commission members in December to begin their term in January. No officer may serve in the same capacity for more than three (3) consecutive one-year terms.  
(Ord. No. O2014.52, 10-2-14)

**Sec. 2-367. Powers and duties.**

The Tempe veterans commission shall have the following powers and duties:

- (1) To advise the mayor and city council and assist city departments on veteran programs, policies, and practices designed to improve the quality of life for veterans in Tempe;
  - (2) To educate the community on the status of veterans' rights, needs, and contributions to our community;
  - (3) To recommend ways to strengthen existing services for veterans while pursuing the creation of new program and service opportunities;
  - (4) To develop and promote benchmarks as outlined by the Arizona Coalition for Military Families for assisting the city of Tempe and its business community earn recognition as “Arizona Veteran Supportive Employers”;
  - (5) To assist in creating and supporting a community connection point to inform, guide, and direct military veterans seeking personal and professional enhancement services that may include education, mentoring, workforce support, and health and wellness; and
  - (6) To advise on supportive affordable housing projects for veteran families.
- (Ord. No. O2014.52, 10-2-14)

**Sec. 2-368. Meetings.**

The Tempe veterans commission shall conduct regular meetings six (6) times in a calendar year and have the ability to call a special meeting pursuant to rules and regulations adopted in accordance with section 2-181(a)(2). Regular meetings shall not be held more frequently than two (2) meetings in any 30-day period.

(Ord. No. O2014.52, 10-2-14)

**Sec. 2-369—2-372. Reserved.**

**ARTICLE VI. EMPLOYER, EMPLOYEE RELATIONS  
MEETING AND CONFERRING**

**DIVISION 1. IN GENERAL**

**Sec. 2-400. Definitions.**

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

*Budget year* means the biennial budget term adopted by the city the first term of which commences July 1, 2001.

*Business days* means Monday through Friday excluding holidays as designated by the city manager.

*Day* means calendar day except as otherwise stated.

*Employee* shall mean benefited fulltime and benefited part-time employees; but shall exclude contracted, temporary, seasonal, or new probationary employees, employees on leaves of absence where the duration of time off is in excess of six (6) months.

*Employee organization receiving a majority vote* shall mean an employee organization that has been designated as the official and exclusive employee organization pursuant to the petition process identified in § 2-401 or § 2-402.

*Non-supervisory employees* shall mean any city employee who does not have authority to hire, discharge, promote, transfer, suspend, lay off, or discipline other regular or temporary employees or to effectively recommend such action, or who is not in a confidential relationship with city management. Determination of non-supervisory and confidential status shall be made by the city manager.

*Petition* shall mean a form for signatures established by the city manager.  
(Ord. No. 2000.43, 10-12-00; Ord. No. 2006.76, 9-21-06)

**Sec. 2-401. Employee groups.**

- (a) There shall be four (4) employee groups within the city. They shall include:
  - (1) Fire fighters, all classifications up to and including captain;
  - (2) Police officers, all classifications up to and including sergeant;
  - (3) All other non-supervisory employees; and

- (4) Supervisory employees except management and confidential employees as designated by the city manager.

(b) Authorized representation of an employee group shall be determined by the presentation of a petition to the city manager containing the signatures of a majority of the employees in one of the above-designated groups.

(Ord. No. 99.39, 12-9-99; Ord. No. 2000.43, 10-12-00; Ord. No. 2006.76, 9-21-06; Ord. No. 2012.06, 1-19-12)

**Sec. 2-402. Petition process.**

(a) Each petition submitted to the city manager shall contain the name of the employee group, the name of the employee organization, signature, printed name, date of signature, and employee position of each person signing the petition. No signature on a petition shall bear a date greater than ninety (90) days in advance of submittal. If an eligible employee signs more than one petition, then the latest dated signature shall be considered valid. Each petition shall be in a form established by the city manager. Petitions shall be submitted no earlier than July 15 and no later than September 15 preceding each budget year.

(b) The city manager shall, within thirty (30) days from receiving the petition, verify that a majority of the eligible employees within the designated group have signed the petition and shall then promptly designate the named employee organization as the official and exclusive employee organization for purposes of meeting and conferring.

(c) An employee organization shall be designated as the exclusive and official employee organization for purposes of meeting and conferring. Once an employee group has designated an employee organization, such designation can be changed no earlier than July 15 and no later than September 15 preceding each budget year as follows:

- (1) The employee group shall present a petition to the city manager containing the signatures of fifty percent (50%) or more of the eligible employees in the employee group. The petition shall include the name of the employee organization being decertified. The city manager shall, within thirty (30) days from receiving the petition, verify that fifty percent (50%) or more of the eligible employees within the designated group have signed the petition and shall then promptly decertify the named employee organization as the official and exclusive employee organization for purposes of meeting and conferring; or
- (2) Alternatively, an employee group may decertify its designated employee organization and designate a new employee organization by presenting a petition to the city manager containing the signatures of fifty percent (50%) plus one or more of the eligible employees in the employee group. The petition shall indicate the name of the employee group, the employee organization being decertified, and the employee organization being designated to represent those employees. The city manager shall, within thirty (30) days from receiving the petition, verify that fifty percent (50%) plus one or more of the eligible employees within the designated group have signed the petition and shall then

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promptly decertify the current designated employee organization and designate the new employee organization as the official and exclusive employee organization for purposes of meeting and conferring.

(Ord. No. 2000.43, 10-12-00)

### **Sec. 2-403. Rights of employee organizations.**

(a) Employees have the right to participate on behalf of or engage in activities on behalf of an employee organization and have the right to refrain from such activity. Employees shall be free from any interference, restraint, or coercion by any employee, supervisor, or manager for or against employee organizations. Violations will necessitate disciplinary action.

(b) There can be only one official and exclusive employee organization for each employee group for purposes of meeting and conferring. Nothing in this article shall prohibit any employee not within an employee group represented by a designated employee organization from exercising any rights the employee may have to meet with the city manager consistent with personnel rules and regulations or any city manager directive.

(c) Designated employee organizations shall have the right to bi-weekly or monthly dues deductions, if approved by the members of the organization.

(d) Dues deductions for a designated employee organization from the payroll of any participating employee must be authorized by each individual employee on the appropriate form provided by the human resources division.

(Ord. No. 2000.43, 10-12-00)

### **Secs. 2-404—2-424. Reserved.**

## DIVISION 2. MEETING AND CONFERRING

### **Sec. 2-425. Scope.**

(a) This meet and confer process covers wages, hours, benefits and working conditions, which may include: salary or wage rates or other forms of direct monetary compensation and direct cost subjects; paid time off and procedures therefor; leaves of absence; insurance benefits; total hours of work required of an employee on each workday or workweek, including overtime, compensatory time, rest and meal periods and call-in/call-back; health and safety; training; personnel records review; discussions with personnel by group representatives; distribution of information; meet and confer procedures; city-wide uniform procedure for employee grievances; uniform process for employee discipline; rights of the employee organizations and the city; items mutually agreed upon by an employee organization and the city manager. The following items shall not be included in the meet and confer process: discipline of employees or hiring, discharging, promotions, demotions, transfers or suspensions. Non-negotiable items include any facet of the hiring, promotion or transfer of employees, the types of discipline or the grounds for demotion, discharge, suspension or discipline.

(b) It is the right of the city to determine the purpose of each of its departments, agencies, boards and commissions, and to set standards of service to be offered to the public and exercise control and discretion over its organization and operations. It is also the right of the city to direct its employees, take disciplinary action, relieve its employees from duty because of lack of work or for other legitimate reasons, determine whether goods or services shall be made, purchased or contracted for, and determine the methods, means, and personnel by which the employer's operations are to be conducted. The city has the right to take all necessary actions to maintain uninterrupted service to the community. The mayor and city council may, at their option and sole discretion, direct the city manager to consult with the city's employees, or their authorized representatives, about the direct consequences that decisions on these matters may have on wages, hours, and working conditions. The enumeration of the above rights is illustrative only and is not to be construed as being all inclusive.

(Ord. No. 2000.43, 10-12-00)

**Sec. 2-426. Process.**

(a) Employee organizations receiving a majority vote of all employees in a designated group shall submit proposals regarding wages, hours, benefits and working conditions to the city manager no earlier than September 15 and no later than November 15 prior to each budget year.

(b) All proposals submitted to the city manager must be in writing and in a form which can be incorporated into a memorandum of understanding. Unless otherwise provided in this article, during negotiations, proposals shall remain confidential except that they shall be available to the city manager, the employee organization representatives, the employees within the employee group, and others as designated by the city manager.

(c) Upon receiving a proposal from a designated employee organization, the city manager, shall submit a written response to the proposal to the employee organization within thirty (30) days.

(d) Within ten (10) days from the receipt of the city manager's response, representatives of the employee organization and the city manager or his designated representative shall begin "meeting and conferring" at mutually agreed upon times and places in Tempe, for the purpose of entering into a written memorandum of understanding relating to the proposals. Meetings shall be at least three (3) hours in duration, unless mutually agreed otherwise. Meetings shall continue weekly unless mutually agreed otherwise until an agreement is reached, or impasse is declared by either party. Meeting ground rules shall be promulgated by the city manager and shall be adhered to while meeting and conferring.

(e) The city manager and the representative of the employee organization, shall initial all areas of agreement. Those areas not in agreement shall be outlined as areas in dispute. If agreement still has not been reached by February 15, a neutral mediator may be requested by either party. The neutral mediator shall assist the parties to reach an agreement.

(f) The neutral mediator shall be from the Federal Mediation and Conciliation Service or a non-employee of the city that is mutually agreed upon by the city manager or his designee and



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the representative of the designated employee organization. If an agreement still has not been reached by March 1, a fact finder may be requested by either party from the Federal Mediation and Conciliation Service. Standard rules of the Federal Mediation and Conciliation Service will be utilized in the selection, use and payment of the fact finder unless the parties agree otherwise.

(g) All issues not previously agreed upon will be submitted to the fact finder for a recommendation for resolution. A public session may be requested by either party. The fact finder shall issue a recommendation to both parties no later than May 15. On or before June 1, all areas of agreement, areas in dispute and still under consideration and the recommendation of the fact finder, shall be submitted to the mayor and council for their consideration.

(h) Any costs for the neutral mediator and the fact finder shall be equally shared between the city and the employee organization.

(i) The mayor and council may accept, reject or modify those areas of agreement within the proposed memorandum of understanding or may take whatever action they feel appropriate with regard to any areas in dispute consistent with the city charter. Final action by the mayor and council shall constitute the memorandum of understanding for a budget year.

(j) If there is a claim of breach of a memorandum of understanding and the employee organization's existing memorandum of understanding does not provide a process for resolution of the breach, the breach process in subsection (k) shall apply. If the matter is submitted for resolution to the mayor and city council either through the breach process established in subsection (k) or a breach process established in a memorandum of understanding, the decision of the mayor and city council shall be consistent with city charter and final and binding upon the parties and employees.

(k) In the event that there is a claim of breach of a memorandum of understanding that the employee organization and the city have been unable to informally resolve, the following process shall be followed:

- (1) If either a designated employee organization or the city manager claims that the memorandum of understanding has been breached, the parties shall:
  - a. Within forty-five (45) days of the alleged breach, the party alleging the breach shall give written notice to the party who has allegedly breached the memorandum of understanding. The notice shall specify the provision(s) breached and the facts and evidence demonstrating or supporting the breach;
  - b. A written response to the alleged breach shall be submitted to the party alleging the breach within ten (10) days of the written notice;
  - c. Within fourteen (14) days of the written notice, the parties shall meet and attempt to resolve the matter; and

d. A written agreement which is intended to resolve the matter shall be signed by the parties and submitted to the mayor and city council at their next regularly scheduled meeting.

(2) If the parties are unable to resolve the matter, all written materials submitted in subparagraphs a. through d. above shall be submitted for resolution to the mayor and city council; and

(3) The time frames in subsection (k) above can be mutually waived by the parties.  
(Ord. No. 99.39, 12-9-99; Ord. No. 2000.43, 10-12-00; Ord. No. 2001.24, 7-26-01)

**Sec. 2-427. Conflicts.**

In the event there is a conflict between the city's personnel rules and regulations and a memorandum of understanding, the memorandum of understanding will apply to the conflicting issue.

(Ord. No. 2000.43, 10-12-00)

**Sec. 2-428. Solicitations and distributions.**

(a) Solicitations of members, dues and other internal employee organization business shall be conducted only during non-duty hours and shall not interfere with the work process.

(b) Solicitation of members, dues and distribution of other internal employee organization business shall take place in non-working areas. Notice of employee organization meetings and agendas may be posted in the city's e-mail meeting folder.

(Ord. No. 2000.43, 10-12-00)

**Secs. 2-429—2-500. Reserved.**

**ARTICLE VII. RISK MANAGEMENT**

**DIVISION 1. RISK MANAGEMENT TRUST BOARD**

**Sec.2-501. Definitions.**

For the purposes of this division, the following words and phrases shall have the meanings respectively ascribed to them by this section:

*Board* means the risk management trust board.

*Claim* means any insured claim or SIR claim.

*Claim cost* means any internal or external cost or expense incurred by the city in response to any claim against the city, including, but not limited to, claim adjustment costs, contractual services costs, legal defense costs and attorneys' fees awarded against the city.

*Insured claim* means any claim falling within the coverage provisions of any insurance policy insuring the city.

*Risk management cost* means any internal or external cost associated with the purchase and maintenance of any commercial property insurance policy, workers' compensation policy or liability insurance policy or bond for, or on behalf of, the city, including consulting, brokerage and actuarial fees; and all other internal and external costs, fees and expenses incurred in connection with loss prevention and the management of the risk management trust fund.

*Risk management program* means the city's system of a combination of insurance and direct payments to pay for benefits, losses or claims.

*SIR* means self-insured retention.

*SIR claim* means any demand for direct payment of costs, including health, accident, life and disability benefits, a legal action and counter demand or counterclaim for payment of any property loss sustained or lawful claim of liability or fortuitous loss made against the city, covered corporations, covered city entities or covered individuals. The following types of claims are specifically excluded from the definition of SIR claim: (i) any claim alleging damages relating to employee benefits or salary; or (ii) or any insured claim.

*SIR costs* shall mean any claim cost arising from an SIR claim.

*Trust fund* means the risk management trust fund established by the city for the purpose of paying benefits, claims, claim costs, SIR costs and risk management costs.  
(Ord. No. 2012.47, 10-18-12)

**Sec. 2 -502. Trust fund—established.**

There is hereby established the risk management trust fund. The city manager is directed to segregate all funds previously and hereinafter budgeted for trust fund purposes as described in this article and to maintain the trust fund separate and apart from the city general fund.

(Ord. No. 2012.47, 10-18-12)

**Sec. 2-503. Trust fund—purpose.**

(a) The purpose of the trust fund is to provide for the payment of benefits, losses and claims as set forth in A.R.S. § 11-981(A) which shall include legal defense costs, administrative costs, claims adjusting costs, losses (including those related to workers' compensation, personal injury or property damage), reserves for anticipated losses and lawsuits, insurance costs (including premiums), external audit and other expenses related to the operation of the city's self-insurance program. Each year, the city council, upon recommendation from the city manager in consultation with the board, will determine the amount deemed appropriate for these purposes.

(b) Such trust fund shall be funded as part of the annual budgetary and appropriation process of the city in such amounts as to provide sufficient monies to pay all reasonable anticipated claim costs and risk management costs for which the city will be responsible in the ensuing fiscal year.

(Ord. No. 2012.47, 10-18-12)

**Sec. 2-504. Designation of risk management consultant.**

(a) Pursuant to A.R.S. § 11-981(B)(1), the city shall designate a risk management consultant ("risk manager").

(b) Under A.R.S. § 20-283(B)(7), the risk manager is exempt from licensing requirements in Title 20.

(c) The authority granted to the city under A.R.S. § 11-981 is not subject to Title 20, except that any health, life, accident or disability benefit plan shall conform to the benefits required by Title 20.

(Ord. No. 2012.47, 10-18-12)

**Sec. 2-505. Administration of trust—creation of risk management trust board.**

(a) *Members.* The trust shall be administered by five (5) joint members who shall serve in an advisory capacity at the sole pleasure of the city council. The city council shall appoint five (5) members, of whom no more than one may be a member of the city council and no more than one may be an employee of the city. A majority of the members shall constitute a quorum for the purpose of conducting business of the board. At the time of initial appointment, the city council shall designate the length of terms to provide for staggered terms. The resignation, incompetency, death or termination of any or all of the members shall not terminate the trust fund or affect its continuity. During a vacancy, the remaining members may exercise the power of the

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members hereunder. Vacancies among the members shall be filled by appointment by the city council for the remainder of the vacant term.

(b) *Duties.* The board shall meet at least once a year and shall make recommendations thereafter to the city council, through the city manager, regarding the investment and administration of the trust. The board shall submit an annual report to the city council through the city manager relating to the status of the trust fund and making other recommendations that the board deems necessary and appropriate. The risk manager shall coordinate the activities of the board and assist in the facilitation and administration of the trust fund in whatever manner is appropriate and necessary.

(c) *Bonding requirements.* The members shall be bonded in the same manner and procedure as for city employees.

(d) *Stop loss provision.* Pursuant to the self-insurance provisions of the city risk management program, only a certain portion of risk exposure will be self-imposed. Levels of self-insured retention for each particular type of a risk shall be recommended by city staff and established and approved by the city council.

(e) *Annual audit.* An annual audit shall be performed by an external auditor and a copy of the report shall be kept on file in the office of the city clerk for a period of not less than five (5) years. The risk manager shall coordinate this audit.

(f) *Expenditures from trust fund.* There shall be no expenditures from the trust fund for any purpose not specified in A.R.S. § 11-981 or this article.  
(Ord. No. 2012.47, 10-18-12)

### **Sec. 2-506. Trust fund not subject to budget law.**

Expenditures during the fiscal year from the trust fund and money in the trust fund at the close of the fiscal year shall not be subject to the provisions of Title 42, Chapter 17, Article 3, of the Arizona Revised Statutes.  
(Ord. No. 2012.47, 10-18-12)

### **Sec. 2-507. Lapse of trust fund.**

In the event the trust fund is no longer used by the city for the purposes stated in this article and in A.R.S. § 11-981, the fund shall revert during that fiscal year to the general fund.  
(Ord. No. 2012.47, 10-18-12)

### **Sec. 2-508. Insurance.**

(a) The city manager, or his designee, is authorized to enter into, on behalf of the city, any appropriate insurance and surety bonding contracts to provide such risk insurance as he determines to be in the city's best interests.

(b) Per A.R.S. § 11-981(F), the city is not authorized to purchase insurance from any insurer not authorized by the director of the department of insurance.  
(Ord. No. 2012.47, 10-18-12)

**Secs. 2-509—2-524. Reserved.**

**DIVISION 2. CLAIMS AND DEMANDS AGAINST CITY<sup>10</sup>**

**Sec. 2-525. Presentation of claims.**

All claims against the city shall be presented as required by Arizona law.  
(Ord. No. 2012.47, 10-18-12)

**Sec. 2-526. Manner of approval or disapproval of claims.**

(a) All claims other than for damages shall be approved, negotiated or rejected by the city manager or his designee.

(b) All claims for damages shall be approved, negotiated or rejected by the risk manager where the amount thereof or the negotiated amount of payment does not exceed the sum of twenty-five thousand dollars (\$25,000). Any claims payment for damages twenty-five thousand one dollars (\$25,001) or greater but less than fifty thousand dollars (\$50,000) shall be approved, negotiated or rejected by the risk manager with the approval of the city attorney's office. Any claims payment for damages fifty thousand dollars (\$50,000) or greater but less than seventy-five thousand dollars (\$75,000) shall be approved, negotiated or rejected by the risk manager upon approval of the claims committee which shall consist of the risk manager, a member of the city attorney's office and the finance and technology director or their designees and the department director representing the department to which the claim is being allocated. Any claims payment of seventy-five thousand one dollars (\$75,001) or greater shall require the approval of the city council.

(Ord. No. 2012.47, 10-18-12)

**Sec. 2-527. Claims management procedures.**

(a) The risk manager shall cause all claims to be processed in a timely manner by initiating the prompt investigation, evaluation, settlement or rejection of all claims in accordance with city claims management standards.

(b) The risk manager shall identify and pursue recoveries for the city from all available sources. If litigation is needed to effect recovery, the risk manager shall evaluate potential recovery against the legal costs and make the appropriate determination as to whether or not to initiate the recovery process.

(Ord. No. 2012.47, 10-18-12)

**Sec. 2-528. Report to city council.**

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<sup>10</sup> **Charter reference**—Claims or demands against city, § 5.03.

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The city manager shall advise the city council of all claims and demands paid, together with the name of the vendors or payees, dates paid and amounts.  
(Ord. No. 2012.47, 10-18-12)

**Secs. 2-529—2-534. Reserved.**

## ARTICLE VIII. HUMAN RELATIONS

### Sec. 2-600. Definitions.

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

*Adult* means a person who has attained eighteen (18) years of age.

**State law reference**—similar provisions, A.R.S., § 1-215(3).

*Contractor* means any person who has a contract with the city.

**Cross reference**—Procurement, Ch. 26a.

*Discrimination* means to exclude individuals from an opportunity or participation in any activity because of race, color, gender, gender identity, sexual orientation, religion, national origin, familial status, age, disability, or United States military veteran status, and occurs whenever similarly situated individuals of a different group are accorded different and unequal treatment in the context of a similar situation.

*Employee* means an individual employed for pay to perform services for an employer covered by this article and whose activities are controlled and directed by the employer, for whom services are being performed.

*Employer* means a person doing business within the city who has one (1) or more employees for each working day in each of twenty (20) or more calendar weeks in the current or preceding calendar year, and any agent of such person. This definition excludes:

- (1) The United States or any department or agency thereof, a corporation wholly owned by the United States or any Indian tribe;
- (2) The State of Arizona or any department or agency thereof, except for any political subdivision of the State of Arizona, including any community college district or high school or elementary school district;
- (3) A bona fide membership club (other than a labor organization) that is exempt from taxation under the Internal Revenue Code of 1986 (as amended from time to time);
- (4) A religious organization; or,
- (5) An expressive association whose employment of a person protected by this article would significantly burden the association's rights of expressive association.

**State law reference**—similar provisions, A.R.S., § 23-613.



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*Familial status* means the state of having one or more minor children under the age of eighteen (18) being domiciled with: a parent, guardian or another person having legal custody; the designee of such parent, guardian or another person having legal custody with written permission; or, a foster parent or other person with whom a minor child is placed by court order. This definition includes pregnant women and people securing custody of children under the age of eighteen (18) or disability.

**Cross reference**—Fair housing, Ch. 22, Art. V.

*Gender identity* means an individual's various attributes as they are understood to be masculine or feminine and shall be broadly interpreted to include pre and post operative gender individuals, as well as other persons who are or are perceived to be transgendered; as well as gender expression, including external characteristics and behaviors that are socially defined as either masculine or feminine.

*Place of public accommodation* means facilities, establishments, accommodations, services, commodities, or use offered to or for use by the general public, including public places where food or beverages are offered for sale, public places operated for temporary lodging, use or accommodation of those seeking health or recreation and all establishments offering such goods or facilities, and entities soliciting patronage from the general public, except for religious organizations or expressive associations whose inclusion of a person protected by this article would significantly burden the association's rights of expressive association. This does not include any private club or any place which is in its nature distinctly private.

*Social club* means an organization composed of people who voluntarily meet on a regular basis for a mutual purpose other than for educational, religious, charitable, or financial pursuits. This includes any group that has members who meet for a social, literary, or political purpose. This definition does not include any club conducted for the purpose of evading this article.

*Sexual orientation* means an enduring pattern of emotional, romantic, or sexual attractions to men, women, or both sexes as well as the genders that accompany them, including the perception or status of an individual's same-sex, opposite-sex, or bisexual orientation.

*Vendor* means a person or firm in the business of selling or otherwise providing products, materials or services.

**Cross reference**—Procurement, Ch. 26A.

(Ord. No. O2014.10, 2-27-14)

### **Sec. 2-601. Policy.**

It is declared to be the policy for the citizens of Tempe, Arizona, to be free from discrimination in public accommodations, employment, and housing, and contrary to public policy and unlawful to discriminate against any person on the basis of race, color, gender, gender

identity, sexual orientation, religion, national origin, familial status, age, disability, or United States military veteran status, in places of public accommodation, employment, and housing; and contrary to the policy of the city and unlawful for vendors and contractors doing business with the city to discriminate, as set forth in this article.

(Ord. No. O2014.10, 2-27-14)

**Sec. 2-602. Administrative provisions.**

(a) *Powers and duties.* Administration, authority and responsibility for administering this article shall rest with the city manager.

- (1) The city manager or designee may delegate functions, duties and responsibilities for investigation, mediation, and conciliation and may otherwise act to assist the city in the administration of this article;
- (2) The city manager or designee shall administer programs and activities as authorized herein to further the purposes of this article, in compliance with federal, state and local laws, and shall work with and enter into agreements as approved by the city council, with the United States Equal Employment Opportunity Commission, the United States Department of Housing and Urban Development, and other agencies of the United States or State of Arizona that govern or affect discriminatory practices as defined by this article, including the acceptance of funds from such agencies and the carrying out of such covenants and conditions of such agreements, in compliance with this article; and
- (3) The city manager or designee shall cooperate with and render assistance to, as reasonably requested, other public or private agencies, organizations and entities, to formulate or carry out programs to further the prevention or elimination of discriminatory practices as defined in this article.

(b) The city attorney shall be authorized to take such actions as authorized herein to carry out the duties as set forth in this article.

(Ord. No. O2014.10, 2-27-14)

**Sec. 2-603. Unlawful practices.**

The following shall constitute a violation of this article:

- (1) For any owner, operator, lessor, manager, agent or employer of any place of public accommodation to discriminate against any person, including to restrict or refuse access on the basis of race, color, gender, gender identity, sexual orientation, religion, national origin, familial status, age, disability, or United States military veteran status;
- (2) For an employer, because of race, color, gender, gender identity, sexual orientation, religion, national origin, familial status, age, disability, or United States military veteran status, to refuse to hire or employ or bar or discharge

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from employment any person, or to discriminate against such person in compensation, conditions, or privileges of employment;

- (3) For a labor organization, because of race, color, gender, gender identity, sexual orientation, religion, national origin, familial status, age, disability, or United States military veteran status, to exclude, expel, limit or restrict from its membership any person, or to provide segregated membership or otherwise discriminate in any manner against any of its members, applicants or employers;
- (4) For any owner or lessor to discriminate against any person in the terms, conditions, or privileges of sale or rental of a dwelling, or in the provision of services or facilities therewith, because of race, color, gender, gender identity, sexual orientation, religion, national origin, familial status, age, disability, or United States military veteran status;
- (5) For a city vendor or city contractor, because of race, color, gender, gender identity, sexual orientation, religion, national origin, familial status, age, disability, or United States military veteran status, to refuse to hire or employ or bar or discharge from employment any person, or to discriminate against such person in compensation, conditions, or privileges of employment. City vendors and contractors shall provide a copy of its antidiscrimination policy to the city's procurement officer, to confirm compliance with this article or attest in writing to compliance with this article; or
- (6) For any person to coerce, intimidate, threaten, or interfere with any person in the exercise and enjoyment of, or on account of any aid or encouragement of any right granted or protected under this article.

(Ord. No. O2014.10, 2-27-14)

### **Sec. 2-604. Exclusions.**

This article shall not apply to:

- (1) A religious organization;
- (2) An expressive organization whose employment of a person protected by this article would significantly burden the association's rights of expressive association;
- (3) A bona fide membership club (other than a labor organization) that is exempt from taxation under the Internal Revenue Code of 1986 (as amended from time to time), as defined in this article; or
- (4) A social club, as defined in this article.

(Ord. No. O2014.10, 2-27-14)

**Sec. 2-605. Fair housing.**

(a) It shall constitute a violation of this article to refuse to sell or rent after the making of a bona fide offer, or to refuse to negotiate for the sale or rental of residential real property to any person because of race, color, gender, gender identity, sexual orientation, religion, national origin, familial status, age, disability, or united states military veteran status, within the legal jurisdiction of the city.

(b) It shall constitute a violation of this article to refuse any provision of services or facilities, privileges or conditions of the sale or rental of residential real property to any person because of race, color, gender, gender identity, sexual orientation, religion, national origin, familial status, age, disability, or united states military veteran status, within the legal jurisdiction of the city.

(c) Nothing in this article shall exclude or deny housing designated for senior living or for the disabled, or as otherwise designated or directed by the united states department of housing and urban development or the State of Arizona.

(Ord. No. O2014.10, 2-27-14)

**Sec. 2-606. Penalties, process and appeals.**

(a) Any person found responsible of violating any section or subsection of this article shall be punished by the imposition of a civil sanction of a fine of one thousand five hundred dollars (\$1,500) and not more than two thousand five hundred dollars (\$2,500) plus applicable surcharges, for each violation.

(b) Any person claiming to be aggrieved of a violation of this article may file with the city manager or his designee of the city, a written charge signed by the complainant and verified by such signature, within forty-five (45) days of the alleged violation occurring. The charge shall set forth facts upon which it is based and shall identify the person charged (hereinafter "respondent"). The city manager or designee shall furnish the respondent with a copy of the charge and shall promptly investigate the allegations of the discriminatory practices set forth in the charge.

(c) The respondent may file, no later than twenty (20) days following receipt of the charge, a written verified answer to the charge. Failure to answer or participate in the process will be considered an admission.

(d) The city manager or designee shall render written findings as to whether there may be reasonable cause to substantiate the charge no later than one hundred twenty (120) days from the filing of the charge. The city manager or designee shall furnish a copy of its report of findings to the charging party and to the respondent.

(e) If the city manager or designee finds that there is reasonable cause to believe that the respondent has engaged in a discriminatory practice that is prohibited by this article, the city manager or designee may attempt to eliminate the alleged discriminatory practice by conference, conciliation, and discussion. The terms of any agreement between the parties may require the

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respondent to refrain from or engage in certain actions to carry out the purposes of this article in the future. If an agreement is reached, the city manager or designee shall issue an order stating the terms of the agreement and furnish a copy to each party.

(f) No actions or omissions undertaken pursuant to this article, shall give rise to liability or legal responsibility on the part of the city or any of its employees, agents or officials.

(g) In connection with the investigation of any charge filed under this article, the city manager or designee shall seek the voluntary cooperation of any person to: obtain access to premises, records, documents, individuals and other possible sources of information; examine, record and copy any materials; and take and record testimony and obtain statements as reasonably necessary to further the investigation.

(h) Charges may be dismissed for reasons including: the complaint was untimely filed; the location of the alleged practice was outside of the city's jurisdiction; insufficient evidence exists to conclude that the violation occurred; or a conciliation agreement has been executed by the parties.

(i) If upon completion of the investigation, the city manager or designee has concluded that a violation of this article occurred, but is unable to obtain a conciliation agreement, refer the charge to an appropriate federal or state agency, or otherwise dispose of the violation, it shall impose a fine of one thousand five hundred dollars (\$1,500) per civil violation. A person found responsible for the same civil infraction shall be fined no more than two thousand five hundred dollars (\$2,500). In addition, the city manager or designee may refer the matter to the city attorney's office, who shall determine how best to pursue further action, if any, on the violation.

(j) The city attorney's office will determine whether sufficient facts and evidence exist in order to warrant the initiation of an action in a court of competent jurisdiction. If the city attorney's office determines that the facts or evidence are insufficient to warrant the initiation of an action, the city attorney will provide written notification to the parties, and the charge will be dismissed.

(k) Failure to remit payment of a fine imposed under this article shall result in collection efforts as any other civil judgment.  
(Ord. No. O2014.10, 2-27-14)

### **Sec. 2-607. Severability and legal effect.**

(a) Nothing contained in this article shall be deemed or interpreted to alter, contravene, or supersede state or federal laws, including privacy laws.

(b) Nothing in this article shall be deemed to confer rights or benefits in addition to what is described herein.

(c) Nothing in this article shall be construed to give rise to civil or legal liabilities greater than those already existing under law or to create private causes of action, other than to be remedied as set forth herein.

(d) If any provision, section or subsection of this article is held to be invalid by a court of competent jurisdiction, then such provision, section or subsection shall be considered separately and apart from the remaining provisions or sections, which shall remain in full force and effect.  
(Ord. No. O2014.10, 2-27-14)

**Sec. 2-608. Appeals.**

The following is the process for appeals of any action under this article:

- (1) If either party is dissatisfied with the findings of a violation under this article, the party may administratively appeal the decision to the city manager or designee, within five (5) days of receipt of the findings. The city manager or designee shall render a decision within ten (10) working days of the receipt of request for review;
- (2) If any fines are levied pursuant to this article, the party may appeal the decision and resulting fine in writing to the city manager within five (5) working days of the receipt of the imposition of the fine. Such appeal shall contain the factual basis for the party's position and the reasons why the decision is incorrect and should be overturned;
- (3) If either party is dissatisfied with the administrative review by the city manager, the party may file an appeal in writing with the city clerk to be heard by a hearing officer. Such appeal shall be filed within ten (10) days of the receipt of a decision by the city manager, setting forth the reasons why the decision is incorrect and should be overturned;
- (4) The hearing officer shall consider all facts relating to the issuance of the charge and resulting fine, if any, and may uphold the penalty imposed, eliminate it or modify it;
- (5) The costs of the administrative hearing may be assessed to the responsible party in addition to any other fines and penalties, in the event the charge is upheld; and
- (6) If either party is dissatisfied with the review by the hearing officer, the party may file an appeal in writing with the city clerk to be heard by the city council. Such appeal shall be filed within ten (10) days of the receipt of a decision by the hearing officer, setting forth the reasons why the decision is incorrect and should be overturned. The decision of the city council shall constitute the final decision.

(Ord. No. O2014.10, 2-27-14)

**Sec. 2-609. Public records.**

All documents provided to the city pursuant to this article are public records pursuant to the laws of the State of Arizona and may be subject to disclosure upon request in accordance with the laws of the State of Arizona.

(Ord. No. O2014.10, 2-27-14)

**Secs. 2-610—2-624. Reserved.**

